

NORFOLK



ISLAND

# Companies Regulations 1986

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# COMPANIES REGULATIONS 1986

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NORFOLK



ISLAND

## COMPANIES REGULATIONS 1986

### PART 1 — PRELIMINARY

#### Short title

1. These Regulations may be cited as the *Companies Regulations 1986*.

#### Interpretation

2. (1) In these Regulations, unless the contrary intention appears —

“Act” means the *Companies Act 1985*;

“agent” means the person named in a memorandum of appointment or power of attorney lodged under paragraph 588(2)(e) or subsection 590(6) of the Act or under the corresponding previous law;

“Authority” means the Companies Auditors Authority appointed under subsection 41(1) of the Act;

“dividend” means, in relation to the winding up of the affairs of a company by order or by resolution, the distribution, not being a return of capital, of any part of the property of the company among its creditors or contributories by the liquidator;

“provided” means provided for in the Act or these Regulations;

“registered number” means —

- (a) in relation to a corporation - the number allocated to it on its incorporation or registration; and
- (b) in relation to an auditor, a liquidator, including an official liquidator, or a liquidator of a specified corporation - the number allocated to that person on registration as an auditor, a liquidator or a liquidator of a specified corporation, as the case may be;

“required” means required for the purposes of the Act or these Regulations.

- (2) In a form in Schedule 2, unless the contrary intention appears, a reference to a Part, Division, section, subsection, paragraph or subparagraph is a reference to that Part, Division, section, subsection, paragraph or subparagraph of the Act.



(3) For the purposes of these Regulations, unless the contrary intention appears, words, expressions and provisions contained in these Regulations have the same interpretation, application and effect as they have under the Act.

### Forms

3. (1) Subject to these Regulations, where a provision is specified in Column 1 or 2 of Schedule 1, the form in Schedule 2, the number of which is specified in Column 4 of Schedule 1 opposite that provision, is prescribed as the form to be used for the purposes of that provision in relation to the matter or thing described in Column 3 of Schedule 1 opposite to that provision.

(2) In these Regulations, a reference to a form by number is a reference to a form so numbered in Schedule 2.

### Compliance with forms

4. (1) Strict compliance with the style of a form set out in Schedule 2 is not necessary, unless the Registrar so requires.

(2) Strict compliance with the substance of, and the provision of the information required by, a form set out in Schedule 2 is necessary, unless the Registrar otherwise approves.

(3) A form in Schedule 2 shall be completed in accordance with the directions and instructions as are specified in, or relate to, the form.

### Particulars prescribed by forms

5. Where a form in Schedule 2 requires —

- (a) the furnishing of a document; or
- (b) the furnishing of information or any other matter —
  - (i) by completing the form in the prescribed manner; or
  - (ii) by supplying or completing a document or other annexure to that form,

that document, other annexure, information or other matter shall be taken to be the document, other annexure, information or other matter required to be furnished in pursuance of the provisions of the Act or these Regulations for the purposes of which that form is prescribed by these Regulations.

### General requirements for documents

6. (1) Unless the Registrar otherwise approves, a document lodged with the Registrar shall —

- (a) be on paper of medium weight and good quality and —
  - (i) in the case of the memorandum, the articles or a prospectus of a size not less than international sheet size A5 and not more than foolscap folio size or international sheet size A4; and
  - (ii) in any other case - of foolscap folio size or international sheet size A4;
- (b) subject to the Act, be clearly printed, written or otherwise produced in a manner that is permanent and will make possible a reproduction by photographic means that is satisfactory to the Registrar;

- (c) not be a carbon copy or a copy reproduced by a spirit duplication method;
- (d) have margins not less than 25 millimetres on the left side and not less than 13 millimetres on the right side;
- (e) where it comprises 2 or more sheets, be fastened together securely in the top left corner;
- (f) have written on the first sheet —
  - (i) the registered number of the corporation to which the document relates;
  - (ii) the name of the corporation;
  - (iii) the title of the documents;
  - (iv) the name, address and telephone number of the person by whom or on whose behalf the document is lodged; and
  - (v) the words “lodged with the Registrar on .”;
- (g) in the case of an unlimited company, have the word “Limited” omitted; and
- (h) where the document contains maps or charts on which areas have been distinguished by colour, in addition distinguish those areas by hatching, numbering or lettering.

(2) Where the address of the office of a corporation is required, full particulars of its situation shall be specified to enable it to be readily located.

(3) The name of a person signing a form set out in Schedule 2 that is lodged with the Registrar shall be legibly written under or alongside the signature of the person.

#### **Annexures accompanying forms**

7. (1) Where the space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, that information shall be set out in an annexure.

(2) An annexure to a form shall have an identifying mark and be endorsed with the words:

“This is the annexure of pages marked referred to in the (insert description of form) signed by me and dated .

Signature(s)”

and signed by each person signing the form to which the document is annexed.

(3) The pages in an annexure shall be numbered consecutively.

(4) Where a document, copy of a document or other matter is annexed to a form, reference made in the form to the annexure shall be by its identifying mark, the number of pages in it and a brief description of the nature of the document and its contents.

(5) A reference to an annexure includes a document, copy of a document or any other matter accompanying, attached to or annexed to, a form.

**Time for lodging documents**

8. Where a document, including a copy of a document, is required to be lodged with the Registrar and a period of time within which the document is to be lodged is not prescribed, the document shall be lodged within one month or, in the case of a document required to be lodged by a foreign company, within such further period as the Registrar in special circumstances allows, after the happening of the event to which the document relates.

**Affidavits and statements in writing**

9. (1) Except as otherwise provided, a required affidavit or statement in writing shall be sworn or made, on behalf of a corporation, by a director, a secretary or the principal executive officer of the corporation.

(2) Where a required affidavit purports to be sworn at a place outside Norfolk Island, the affidavit shall be sufficient if it purports to be sworn in accordance with the requirements of the law of that place.

(3) Notwithstanding subregulation (1), an affidavit or statement in writing that is sworn or made under and in accordance with the rules shall be considered to have been sworn or made as required.

**Signature of documents lodged with Registrar**

10. (1) Subject to the Act and these Regulations, a document relating to a corporation that is required to be lodged by or on behalf of the corporation shall be signed —

- (a) by a director, a secretary or the principal executive officer of the corporation; or
- (b) if the corporation is a foreign company, by a person referred to in paragraph (a), the agent of the foreign company or, if the agent is a company, by a director, a secretary or the principal executive officer of the agent.

(2) Notwithstanding subregulation (1), a document that is signed under and in accordance with the rules shall be considered to have been signed as required.

**Verification or certification of a document or a copy of a document**

11. (1) Unless otherwise provided, verification or certification of a document, or a copy of a document, that relates to a corporation and is required to be lodged by or on behalf of the corporation, shall be by a statement in writing in accordance with Form 1 signed by —

- (a) a director, a secretary or the principal executive officer of the corporation, being a person resident in Norfolk Island;
- (b) its agent or, if the agent is a company, by a director, a secretary or the principal executive officer of the agent, being a person resident in Norfolk Island; or
- (c) a person enabled or required by the Act or these Regulations to verify or certify the document.

(2) Verification of a document or of a copy of a document under and in accordance with the rules shall be sufficient verification for the purposes of these Regulations.

**Copies of orders to be lodged with Registrar**

12. Where a person obtains an order of the Court under, or for the purposes of, subsection 165(2), section 258, 266, 488, 569 or 616 of the Act, the person shall lodge an office copy of the order with the Registrar.

**Prescribed offices under paragraph 27(9)(b) of the Act**

13. For the purposes of paragraph 27(9)(b) of the Act, each of the following is a prescribed office:

- (a) the offices of Registrar of the Supreme Court and Deputy Registrar of the Supreme Court under the *Supreme Court Act 1960*;
- (b) the offices of Clerk of the Court and Deputy Clerk of the Court under the *Court of Petty Sessions Act 1960*;
- (c) the offices of Registrar of Probates and Administration and Deputy Registrar of Probates and Administration under the *Wills Act 1973*, the *Probate and Administration Act 1960*, the *Administration and Probate Act 1929* of the Australian Capital Territory in its application to Norfolk Island, Part 2 of the *Wills, Probate and Administration Act, 1898*, of the State of New South Wales in its application to Norfolk Island and section 15 of the *Judiciary Act 1936*;
- (d) the offices of Curator of Deceased Persons' Estates and Curator of Estates of Deceased Persons under the *Administration and Probate Act 1929* of the Australian Capital Territory in its application to Norfolk Island;
- (e) the offices of Master in Lunacy and Deputy Master in Lunacy under the *Lunacy Act 1932*;
- (f) the offices of Registrar of Companies, Assistant Registrar of Companies and Acting Assistant Registrar of Companies under the Act.

**Prescribed amounts**

14. For the purposes of an item specified in Column 1 of Schedule 3, in relation to a provision of the Act specified in Column 2 in that item, the amount specified in Column 3 in relation to that item is the prescribed amount.

**PART 2 — ADMINISTRATION****Evidence of authority under subsection 34(2) of the Act**

15. Where a person produces to a corporation or another person a document that is issued by the Registrar and that document states that the person producing it may require the production of books in accordance with paragraph 34(2)(a), (b) or (c) of the Act, as the case may be, the document shall be evidence —

- (a) of the person's authority to require the production of the books by the corporation or other person in accordance with the paragraph specified in the document; and
- (b) of any limitation on the authority, in pursuance of subsection 34(3) of the Act, that may be specified in the document.

**Prescribed accounting bodies**

16. For the purposes of subparagraph 43(3)(a)(i) and 45(3)(a)(i) of the Act, the following are prescribed bodies:

- (a) the American Institute of Certified Public Accountants;
- (b) The Association of Certified and Corporate Accountants (United Kingdom);
- (c) The Institute of Chartered Accountants in England and Wales;
- (d) The Institute of Chartered Accountants in Ireland;
- (e) The Institute of Chartered Accountants of Scotland;
- (f) New Zealand Society of Accountants;
- (g) Canadian Institute of Chartered Accountants.

**Prescribed universities**

17. For the purposes of subparagraph 43(3)(a)(ii) and 45(3)(a)(ii) of the Act, the following are prescribed universities:

- (a) Australian National University;
- (b) Deakin University;
- (c) James Cook University of North Queensland;
- (d) Latrobe University;
- (e) Macquarie University;
- (f) Monash University;
- (g) University of Adelaide;
- (h) University of Melbourne;
- (i) University of Newcastle;
- (j) University of New England;
- (k) University of New South Wales;
- (l) University of Queensland;
- (m) University of Sydney;
- (n) University of Tasmania;
- (o) University of Western Australia;
- (p) University of Wollongong;
- (q) University of Auckland;
- (r) University of Waikato;
- (s) Massey University;
- (t) Victoria University of Wellington;
- (u) University of Canterbury;
- (v) University of Otago;
- (w) Lincoln College.

**Prescribed institutions**

**18.** For the purposes of subparagraph 43(3)(a)(ii) and 45(3)(a)(ii) of the Act, the following are prescribed institutions:

- (a) Avondale College;
- (b) Ballarat College of Advanced Education;
- (c) Bendigo College of Advanced Education;
- (d) Brisbane College of Advanced Education;
- (e) Canberra College of Advanced Education;
- (f) Capricornia Institute of Advanced Education;
- (g) Caulfield Institute of Technology;
- (h) Chisholm Institute of Technology;
- (i) Churchlands College;
- (j) Darling Downs Institute of Advanced Education;
- (k) Footscray Institute of Technology;
- (l) Gippsland Institute of Advanced Education;
- (m) Kuring-gai College of Advanced Education;
- (n) Mitchell College of Advanced Education;
- (o) Nepean College of Advanced Education;
- (p) N.S.W. Institute of Technology;
- (q) North Brisbane College of Advanced Education;
- (r) Northern Rivers College of Advanced Education;
- (s) Phillip Institute of Technology;
- (t) Prahran College of Advanced Education;
- (u) Preston Institute of Technology;
- (v) Queensland Institute of Technology;
- (w) Riverina College of Advanced Education;
- (x) Royal Melbourne Institute of Technology Limited;
- (y) South Australian Institute of Technology;
- (z) Swinburne Limited;
- (za) Tasmanian College of Advanced Education;
- (zb) Victoria College;
- (zc) Warrnambool Institute of Advanced Education;
- (zd) Western Australian Institute of Technology;
- (ze) Auckland Technical Institute;
- (zf) Manakau Technical Institute;

- (zg) Carrington Technical Institute;
- (zh) Waikato Technical Institute;
- (zi) Taranaki Polytechnic;
- (zj) Manawatu Polytechnic;
- (zk) Wellington Polytechnic;
- (zl) Technical Correspondence Institute;
- (zm) Petone Technical Institute;
- (zn) Nelson Polytechnic;
- (zo) Christchurch Polytechnic;
- (zp) Otago Polytechnic;
- (zq) Hawkes Bay Community College;
- (zr) Southland Community College;
- (zs) Northland Community College;
- (zt) Waiariki Community College;
- (zu) Bay of Plenty Community College;
- (zv) Tairāwhiti Community College;
- (zw) Wanganui Regional Community College;
- (zx) South Canterbury Community College.

**Application of security under subsection 47(2) of the Act**

**19. (1)** Subject to subregulations (2) and (3), the security lodged by a liquidator or a liquidator of a specified corporation in accordance with subsection 47(2) of the Act is applicable by the Authority for the purpose of compensating a person who has suffered pecuniary loss due to the failure of that liquidator to carry out adequately and properly his duties as a liquidator, or a liquidator of a specified corporation, as the case may be, whether or not the liquidator has been convicted of an offence in relation to that failure.

**(2)** A security shall not be applied under subregulation (1) for the purpose of compensating a person who has suffered pecuniary loss due to the failure of a liquidator, or a liquidator of a specified corporation, to carry out adequately and properly his duties unless —

- (a) a claim for compensation is lodged in writing with the Authority by or on behalf of that person —
  - (i) not later than a date specified by the Authority, being a date not less than 3 months after the Authority has advertised for claims for compensation to be paid out of that security, by notice published in a newspaper circulating in Norfolk Island;
  - (ii) where no such notice is published - not later than 6 months after the person became aware that he had suffered pecuniary loss due to the failure of the liquidator, or liquidator of a specified corporation, to carry out adequately and properly his duties; or

(iii) not later than whichever later date the Authority in a particular case allows; and

(b) the Authority is satisfied that the claim is a proper claim.

(3) The Authority shall give the liquidator, or liquidator of a specified corporation, by whom a security has been lodged an opportunity of being heard on all relevant claims for compensation before deciding whether any person is or persons are to be compensated under subregulation (1).

(4) In this regulation, the pecuniary loss suffered by a person, in respect of which a claim may be lodged, means the amount of the pecuniary loss suffered by that person due to the failure of the liquidator to carry out adequately and properly his duties, together with the reasonable costs of, and disbursements incidental to, the making and proof of the claim, less the amount or value of all moneys or other benefits paid or payable to him other than by the Authority in reduction of that loss.

(5) A security lodged by a liquidator, or a liquidator of a specified corporation, in accordance with subsection 47(1) of the Act that is applied by the Authority under subregulation (1) shall be applied —

(a) where the amounts in respect of which claims have been lodged that have been admitted by the Authority do not in the aggregate exceed the amount of the security - in the payment in full of those amounts; or

(b) where those amounts exceed in the aggregate the amount of the security - in the payment of part of each of those claims, being the part that bears to the full amount of the claim the same proportion as the amount of the security bears to the aggregate of the amounts of those claims.

#### **Discharge of security under subsection 47(3) of the Act**

**20.** (1) For the purposes of subsection 47(3) of the Act —

(a) where a liquidator, or a liquidator of a specified corporation, ceases to be registered as such a liquidator;

(b) where there is a reduction in the potential liability of such a liquidator in relation to which a security was lodged by that liquidator; or

(c) in such other circumstances as the Authority in a particular case permits,

the Authority may on the application of the liquidator or any person who has entered into the security as surety —

(d) discharge the security wholly or in part;

(e) return wholly or in part any money or other property lodged as security; or

(f) release the surety wholly or in part.

(2) The Authority shall not exercise any power pursuant to subregulation (1) until 3 months after the date on which a notice in accordance with a form provided by the Registrar is published in a newspaper circulating in Norfolk Island asking for particulars in writing of any claim in respect of the security to which



the application relates and specifying a date on or before which any such claim is to be made.

(3) Publication of a notice referred to in subsection (2) shall be arranged by, and effected at the expense of, the person making the application to the Authority.

(4) Where a liability may be imposed on a surety in relation to a claim —

- (a) pursuant to a notice under subregulation (2); or
- (b) accepted by the Authority as a proper claim,

that surety may, and, on the request of the liquidator, or liquidator of a specified corporation, shall, apply to the Authority for directions as to the manner in which the security is to be dealt with and as to whether the surety should be released wholly or in part.

(5) Where an application is made to the Authority under subregulation (4), the Authority, on being satisfied that the liability is substantially less than the amount for which the surety is liable in respect of the security, may give directions in relation to —

- (a) the variation of the instrument pursuant to which the liability of the surety arises;
- (b) the return of the whole or any part of any money or other property held by the surety in respect of a potential liability that was greater than the claims presented;
- (c) the reference to a court or arbitration of any matters in dispute; or
- (d) the release wholly or in part of the surety.

### **Effect of discharge of security**

21. (1) Subject to subregulation (2), where a security is discharged wholly or in part, by the Authority —

- (a) a claim shall not lie against, and if made shall not be recoverable from, the surety in relation to the obligation conditioned by the security, in so far as he has been released from that obligation; and
- (b) the surety shall deliver up, refund, transfer or otherwise return to the liquidator the whole, or such proportion as the Registrar may direct in the case of a partial discharge, of any money or other property deposited with or held by the surety to cover the potential liability of the surety under the security.

(2) Where the Authority directs that a security be discharged only in part, he may, in his directions, state that the surety is not released from the obligations relating to those claims that are specified by it in those directions, and the surety shall remain subject to any claims that are so specified.

## **PART 3 — CONSTITUTION OF COMPANIES**

### **Form of notice of resolution**

22. A copy of a resolution lodged with the Registrar in pursuance of subsection 98(1), 98(2), 100(2), 103(2), 103(3), 316(1) or 494(2) of the Act shall be set out in, or in an annexure to, a notice in accordance with a form provided by the Registrar.

**PART 4 — PROSPECTUSES AND SECURITIES***Division 1 — Prospectuses***Interpretation**

**23.** In this Division and in Schedule 4 —

“investigating accountant” means the registered company auditor who has made the report required to be included in the prospectus by paragraph 135(3)(b) of the Act;

“investigating accountant’s report” means a report by a registered company auditor that is included in a prospectus pursuant to paragraph 135(3)(b) of the Act.

**Valuation of tangible property of borrowing corporation and guarantor corporations**

**24.** For the purposes of section 129 of the Act, the investigating accountant shall, where calculating the aggregate values of tangible property of the borrowing corporation and of its guarantor corporations —

- (a) do so on the values disclosed in the report made by him and included in the prospectus, pursuant to paragraph 135(3)(b) of the Act; and
- (b) adjust those values for any material amounts that are not reasonably likely to be realisable to meet the liability for the repayment of all moneys secured by the charge.

**Investigating accountant’s report**

**25. (1)** The investigating accountant’s report shall, where it is required to deal with the profit or loss or assets and liabilities of a corporation —

- (a) in respect of the profit or loss, do so in respect of each of the 5 financial years immediately preceding the issue of the prospectus and, where accounts have been made up for a part of the financial year in which the prospectus is issued, in respect of that part; and
- (b) in respect of the assets and liabilities, do so as at the end of the last financial year, or the part of the financial year, referred to in paragraph (a), whichever is the later.

**(2)** The investigating accountant's report shall, where it is required to deal with the combined profits and losses and combined assets and combined liabilities of a corporation and its subsidiaries or of a corporation and those of its subsidiaries that are its guarantors —

- (a) in respect of the combined profits and losses, do so in respect of each of the 5 financial years immediately preceding the issue of the prospectus and, where accounts have been made up for a part of the financial year in which the prospectus issued, in respect of that part; and
- (b) in respect of the combined assets and combined liabilities, do so as at the end of the last financial year, or the part of the financial year, referred to in paragraph (a), whichever is the later.

**(3)** For the purposes of subregulations (1) and (2), the last financial year, or the part of a financial year, in respect of which the investigating accountant’s report deals with the matters referred to in those subregulations shall be a financial year, or a part of a financial year, that ended not more than 6 months, or, with the consent of the Registrar, not more than 12 months, before the date of the prospectus.

(4) The investigating accountant's report shall deal with the rates of the dividends paid by the corporation by which the prospectus has been issued, giving particulars, in respect of each class of shares for each of the 5 financial years immediately preceding the issue of the prospectus and for the financial year in which the prospectus is issued, of the dividends that have been paid and the instances in which dividends have not been paid.

(5) The investigating accountant's report shall be presented in tabular form, in such manner as will facilitate the comparison of equivalent amounts as among the financial years in respect of which they are provided.

(6) If, in respect of a corporation with which an investigating accountant's report is required to deal, no accounts have been made up for any part of the period of 5 years ending 3 months before the issue of the prospectus, the investigating accountant's report shall contain a statement of that fact.

### **Combined profits and losses**

26. (1) For the purposes of regulations 29 to 32 inclusive, an investigating accountant's report shall deal with the combined profits and losses, and combined assets and combined liabilities, of a corporation and its subsidiaries or of a corporation and those of its subsidiaries that are guarantors, in —

- (a) a statement of consolidated profit and loss and a statement of consolidated assets and consolidated liabilities for the corporation and the subsidiaries;
- (b) two or more statements of consolidated profit and loss and consolidated assets and consolidated liabilities together covering the corporation and the subsidiaries;
- (c) a combination of one or more statements of consolidated profit and loss and consolidated assets and consolidated liabilities and one or more separate statements of profit or loss and assets and liabilities, together covering the corporation and the subsidiaries; or
- (d) separate statements of profit or loss and assets and liabilities for the corporation and each of the subsidiaries.

(2) The statements prepared pursuant to paragraph (1)(a), (b), (c) or (d) shall give a true and fair view, for the purposes of the investigating accountant's report, of the combined profits and losses and the combined assets and combined liabilities of the corporation and its subsidiaries or the corporation and those of its subsidiaries that are guarantors, making allowance in relation to the profits or losses and assets and liabilities of the subsidiaries for the interests of members of the subsidiaries other than the corporation.

(3) Where a statement of consolidated profit and loss and consolidated assets and consolidated liabilities is prepared for the purposes of this Division, transactions and balances between the corporations covered by that statement shall be eliminated in determining any amounts to be included in that statement.

(4) Where the combined profits and losses and combined assets and combined liabilities of a corporation and its subsidiaries or of a corporation and those of its subsidiaries that are guarantors are dealt with otherwise than in accordance with paragraph (1)(a), the investigating accountant shall certify in his report —

- (a) that for reasons set out in the certificate, it was impracticable to deal with them in accordance with paragraph (1)(a) or that it was

preferable that they be dealt with in accordance with paragraph (1)(b), (c) or (d), as the case may be; and

- (b) that they were not significantly affected by transactions and balances between the corporations to which they relate, except to the extent stated in the notes in the report.

#### **Corporation with no subsidiaries**

27. Where the corporation has no subsidiaries, the investigating accountant's report shall deal with the profit or loss and assets and liabilities of the corporation in a statement giving for the purposes of the report a true and fair view of the profit or loss and assets and liabilities of the corporation.

#### **Corporation with no subsidiaries and holding company as guarantor**

28. Where the corporation has no subsidiaries and its holding company is its sole guarantor, the investigating accountant's report shall deal with, and give a true and fair view of—

- (a) the profit or loss and assets and liabilities of the corporation on its own; and
- (b) the profit or loss and assets and liabilities of the guarantor corporation on its own.

#### **Corporation with subsidiaries and no guarantor**

29. Where the corporation has subsidiaries and no guarantor, the investigating accountant's report shall deal with, and give a true and fair view of—

- (a) the profit or loss and assets and liabilities of the corporation on its own; and
- (b) the combined profits and losses and combined assets and combined liabilities of the corporation and its subsidiaries.

#### **Corporation with guarantors all of which are subsidiaries**

30. Where the corporation has guarantors, all of which are subsidiaries, the investigating accountant's report shall deal with, and give a true and fair view of—

- (a) the profit or loss and assets and liabilities of the corporation on its own;
- (b) the combined profits and losses and combined assets and combined liabilities of the corporation and those of its subsidiaries that are guarantors; and
- (c) the combined profits and losses and combined assets and combined liabilities of the corporation and its subsidiaries, including those that are not guarantors.

#### **Corporations with subsidiaries and a holding company that is the guarantor**

31. Where the corporation has subsidiaries and a holding company that is the only guarantor, the investigating accountant's report shall deal with, and give a true and fair view of—

- (a) the profit or loss and assets and liabilities of the corporation on its own;
- (b) the profit or loss and assets and liabilities of the holding company on its own; and

- (c) the combined profits and losses and combined assets and combined liabilities of the corporation and its subsidiaries.

**Corporations whose guarantors comprise their holding company and subsidiaries**

**32.** Where the corporation has subsidiaries and a holding company and its guarantors comprise the holding company and the subsidiaries of the corporation, the investigating accountant's report shall deal with, and give a true and fair view of —

- (a) the profit or loss and assets and liabilities of the corporation on its own;
- (b) the profit or loss and assets and liabilities of the holding company on its own;
- (c) the combined profits and losses and combined assets and combined liabilities of the corporation and those of its subsidiaries that are guarantors; and
- (d) the combined profits and losses and combined assets and combined liabilities of the corporation and its subsidiaries, including those that are not guarantors.

**Estimate of amounts payable to or by a borrowing corporation**

**33. (1)** If the prospectus relates to shares in, or debentures of, a borrowing corporation, the investigating accountant's report shall state separately estimates of the amounts payable by, and the debts payable to, the corporation or the corporation and its subsidiaries, as the case may be —

- (a) not later than in one year's time;
- (b) later than in one year's time but not later than in 2 years' time;
- (c) later than in 2 years' time but not later than in 5 years' time; and
- (d) later than in 5 years' time,

calculated from the last date to which the accounts of the corporation were made up.

**(2)** Subject to subregulation (3), for the purposes of subregulation (1) those debts only shall be considered payable within a specified period that would be paid within that period if payment were made without default in accordance with the terms of the contract under which each debt is payable.

**(3)** Where the investigating accountant believes that there will be a delay in the payment of a debt, extending beyond the period within which that debt would otherwise be considered payable, that debt shall be considered as payable within the period within which the investigating accountant believes that payment of the debt will be received.

**Treatment of interest, accommodation charges, service charges, etc**

**34.** Any sums that consist of, or are in the nature of, interest, accommodation charges, service charges, maintenance charges or insurance premiums, being income that has not been earned at the last date to which the accounts of the corporation were made up, shall not be included in any estimate stated in accordance with paragraph 33(1)(a), (b), (c) or (d), unless the amount of unearned income so included is shown as a deduction from the estimate of the gross amount of the class of debts concerned.

**Calculation of unearned income**

**35.** The investigating accountant's report shall include a short statement of the method or methods by which the amount of unearned income has been calculated.

**Statement of basis or bases of accounting, etc**

- 36.** An investigating accountant's report shall set out —
- (a) the basis or bases of accounting adopted in the preparation of the report;
  - (b) whether or not support by another corporation or an unrelated entity has been assumed and, if so, the nature and extent of the assumed support; and
  - (c) whether or not the amounts shown for assets purport to be the amounts that would have been realisable had the assets been sold at the date of the report.

**Matters and reports for the purposes of paragraph 135(3)(c) of the Act**

**37.** The matters specified in Part 1 and, where applicable, Part 4, of Schedule 4 and the reports specified in Part 2 of that Schedule are, subject to the provisions set out in Part 3 of that Schedule, the prescribed matters and the prescribed reports for the purposes of paragraph 135(3)(c) of the Act.

**Agent's authority to be lodged**

**38.** Where a copy of a prospectus lodged with the Registrar under paragraph 142(2)(b) of the Act is signed by an agent of a director or proposed director, the authority to do so or a verified copy of the authority shall be annexed to the copy of the prospectus.

**Verification of a contract not reduced to writing**

**39.** For the purposes of paragraph 142(2)(d) of the Act, a statement in writing verifying a memorandum giving particulars of a contract not reduced to writing shall be made by a director, a secretary or the principal executive officer of the corporation declaring that he is familiar with the particulars of the contract, and that the memorandum contains full and correct particulars of the contract.

*Division 2 — Shares and Debentures***Notice given to company by shareholder**

**40. (1)** Subject to subregulation (2), for the purposes of subsection 207(2) of the Act the prescribed documents are —

- (a) a copy of the contract, scheme or arrangement by reason of which the shareholder, or an associate of the shareholder, acquired the relevant interest or relevant interests by reason of which the person giving the notice became a shareholder; or
- (b) where the relevant interest was acquired in some circumstance other than by reason of a contract, scheme or arrangement or where such a contract, scheme or arrangement was not reduced to writing or is not readily available, a memorandum giving full particulars of that circumstance or contract, scheme or arrangement,

together with a statement in writing by the person who acquired the relevant interest verifying —

- (c) in the case of a document to which paragraph (a) applies - that the copy is a true copy of the contract, scheme or arrangement of which it purports to be a copy; or

- (d) in the case of a document to which paragraph (b) applies - that the memorandum contains full and correct particulars of the circumstance or contract, scheme or arrangement, as the case may be.

(2) Where the shareholder or associate, as the case may be, has throughout the period of 12 months immediately preceding the date of the notice been the holder of those shares in which the relevant interest is held, subregulation (1) does not apply.

**Notice of change in relevant interest or relevant interests of shareholder**

41. For the purposes of subsection 208(2) of the Act, the prescribed documents are —

- (a) a copy of the contract, scheme or arrangement by reason of which the change in the relevant interest or relevant interests referred to in the notice given under subsection 208(1) of the Act has occurred; or
- (b) where the change in the relevant interest or relevant interests occurred in some circumstance other than by reason of a contract, scheme or arrangement or where such a contract, scheme or arrangement was not reduced to writing or is not readily available, a memorandum giving full particulars of that circumstance or contract, scheme or arrangement,

together with a statement in writing by the person who holds the relevant interest or relevant interests in which the change has occurred verifying —

- (c) in the case of a document to which paragraph (a) applies - that the copy is a true copy of the contract, scheme or arrangement of which it purports to be a copy; or
- (d) in the case of a document to which paragraph (b) applies - that the memorandum contains full and correct particulars of the circumstance or contract, scheme or arrangement, as the case may be.

**Notice given to company by former shareholder**

42. For the purposes of subsection 209(2) of the Act, the prescribed documents are —

- (a) a copy of the contract, scheme or arrangement by reason of which the former shareholder ceased to be a shareholder; or
- (b) where the relevant interest ceased to be held in some circumstance other than by reason of a contract, scheme or arrangement or where such a contract, scheme or arrangement is not reduced to writing or is not readily available, a memorandum giving full particulars of that circumstance or contract, scheme or arrangement,

together with a statement in writing by the person who held the relevant interest verifying —

- (c) in the case of a document to which paragraph (a) applies - that the copy is a true copy of the contract, scheme or arrangement of which it purports to be a copy; or

- (d) in the case of a document to which paragraph (b) applies - that the memorandum contains full and correct particulars of the circumstance or contract, scheme or arrangement, as the case may be.

#### **PART 5 — MANAGEMENT AND ADMINISTRATION**

##### **Consent to act as director**

**43.** Where a consent of a person to act as director, lodged with the Registrar under subsection 275(1) of the Act, is signed by an agent of that person authorised in writing for the purpose, the authority or a verified copy of the authority shall be annexed to the consent lodged with the Registrar.

##### **Prescribed authorities for the purposes of subsection 282(3) of the Act**

**44.** Each of the following authorities is a prescribed authority for the purposes of subsection 282(3) of the Act:

- 1936;
- (a) a person who is a gaoler for the purposes of the *Administration Act* 1936;
  - (b) the Controller of Prisons in Tasmania;
  - (c) the Corrective Services Commission of New South Wales;
  - (d) the Director of the Western Australian Prisons Department;
  - (e) the Executive Director of the Department of Correctional Services of South Australia;
  - (f) the Governor of the prison in Victoria that had legal custody of the person on the specified date;
  - (g) the Superintendent of the prison in Queensland that had legal custody of the person on the specified date.

##### **Certification of statutory report and auditor's report**

- 45.** For the purposes of subsection 304(5) of the Act —
- (a) the copy of the statutory report of a company lodged with the Registrar shall be a copy that is certified by not less than 2 directors of the company; and
  - (b) the copy of the auditor's report lodged with the Registrar shall be a copy that is personally signed by the auditor or, where the auditor is a firm, by one of the partners of that firm who is a registered company auditor.

##### **Statement to accompany copy of minute**

**46.** A copy of a minute lodged under subsection 309(11) of the Act with the Registrar shall be set out in or annexed to a statement in accordance with a form provided by the Registrar.

#### **PART 6 — ACCOUNTS, AUDIT AND SPECIAL INVESTIGATIONS**

##### **Requirements relevant to accounts and group accounts**

**47. (1)** Subject to subregulation (2), the prescribed requirements for the purposes of subsection 340(11) of the Act are set out in Schedule 5.

**(2)** In relation to accounts or group accounts made out in relation to a financial year that began before the commencement of the Act the prescribed requirements for the purposes of subsection 340(11) of the Act are —



- (a) those set out in the Ninth Schedule to the *Companies Act, 1899* of the State of New South Wales in its application to Norfolk Island as in force immediately before that commencement; or
- (b) those set out in Schedule 5.

#### **Notice given by inspector**

**48.** A notice under subsection 365(1) or (3) of the Act shall be given to a person by —

- (a) delivering the notice to the person personally;
- (b) sending the notice by prepaid post addressed to the person at his usual or last known place of residence or business; or
- (c) leaving the notice at the last known place of residence or business of the person with a person apparently resident or employed at that place and apparently over the age of 16 years.

#### **Expenses of persons attending for examination**

**49.** For the purposes of subsection 366(10) of the Act, the allowances and expenses to which a person who is required to attend for examination pursuant to paragraph 365(1)(c) of the Act is entitled are such allowances and expenses as the inspector allows in accordance with the scale in Schedule 6.

#### **Authentication of record of examination**

**50.** For the purposes of subsection 368(3) of the Act, a written record of the examination of a person under Part 17 of the Act may be authenticated —

- (a) by the person or persons who prepared the record of examination, or under whose supervision the record was prepared, certifying in writing signed by that person or those persons that the record is a true transcript of the record of examination; or
- (b) by any person present at the examination or any part of the examination signing his name at the bottom of each page of the written record which records a part of the examination at which that person was present.

### **PART 7 — ARRANGEMENTS, RECONSTRUCTIONS, ETC**

#### *Division 1 — Compromises and Arrangements*

#### **Prescribed information for the purposes of subparagraph 399(1)(a)(ii) of the Act**

**51.** For the purposes of subparagraph 399(1)(a)(ii) of the Act, unless the Registrar otherwise allows, the explanatory statement shall —

- (a) in respect of a proposed arrangement between a company and its creditors or a company and a class of its creditors, state the matters set out, and have annexed to it the reports and copies of documents referred to, in Part 2 of Schedule 7;
- (b) in respect of a proposed arrangement between a company and its members or a company and a class of its members, other than a proposed arrangement referred to in paragraph (c), state the matters set out, and have annexed to it the reports and copies of documents referred to, in Part 3 of Schedule 7; and
- (c) in respect of a proposed arrangement between a company and its members, or a company and a class of its members, in respect of

the reconstruction of any corporation or corporations, or the amalgamation of any 2 or more corporations, where —

- (i) the whole or any part of the undertaking or of the property of any corporation is to be transferred to a trustee to be held beneficially on behalf of the unit holders of the trust; or
- (ii) where the shares in any such corporation that are held by members are to be cancelled, and control is to pass to a trustee to be held on behalf of a unit holder of the trust,

state the matters set out, and have annexed to it the document and, in any case where the trustee of that business operates no other business in relation to that trust, the reports referred to, in Part 4 of Schedule 7.

#### **Giving notice under subsection 401(1) or (7) of the Act**

**52.** The prescribed manner of giving a notice under subsection 401(1) or (7) of the Act to a person is by delivering it to him personally or sending it by prepaid post to his address as shown in the books of the transferor company.

#### *Division 2 — Reports and Forms of Account*

#### **Certified copies of reports**

**53.** A copy of a report lodged with the Registrar or of a certificate or other document required to be annexed to it shall be a copy certified in writing to be a true copy of the original —

- (a) in the case of a copy lodged for the purposes of subparagraph 422(1)(c)(i) of the Act - by the receiver of property of the company or registered foreign company;
- (b) in the case of a copy lodged for the purposes of subsection 430(7) of the Act - by a director, a secretary or the principal executive officer of the company;
- (c) in the case of a copy lodged for the purposes of subsection 443(11) of the Act - by the person who, immediately before the appointment of the liquidator, was the official manager of the company; and
- (d) in the case of a copy lodged for the purposes of subsection 479(7) of the Act - by the liquidator of the company.

#### *Division 3 — Official Management*

#### **Notice of special resolution extending period of official management**

**54.** For the purposes of subsection 440(4) of the Act, a copy of a special resolution lodged under subsection 440(4) of the Act shall be set out in or annexed to a notice in accordance with a form provided by the Registrar.

#### **Verification of copy of report**

**55.** A copy of the report of the person who was the official manager of a company, lodged with the Registrar under subsection 455(4), (5) or (6) of the Act, and of a certificate or other document annexed to it, shall be a copy verified in writing by that person to be a true copy of the original report or of that certificate or document.

#### *Division 4 — Winding Up*

**Matters to be entered in books kept by liquidator**

56. For the purposes of section 519 of the Act, the matters as to which the liquidator shall make entries in the books are those that are necessary and proper in order to give a complete and correct record of his administration of the company's affairs.

**Inspection of books kept under section 519 of the Act**

57. The liquidator shall cause the books kept under section 519 of the Act to be made available at his office for inspection in accordance with that section.

**Notice of intention to disclaim lease**

58. Notice in writing given by the liquidator in pursuance of paragraph 556(6)(a) of the Act shall be in accordance with a form provided by the Registrar, and shall be given to the lessor by —

- (a) delivering the notice to the lessor personally; or
- (b) sending the notice by prepaid post addressed to the lessor at his usual or last known place of residence or business.

*Division 5 — Dissolution***Deregistration of defunct company**

59. For the purposes of subsection 561(2) of the Act, a notice shall be given to the company by sending it by registered mail.

**Rate of commission**

60. For the purposes of subsection 564 (3) of the Act, the commission payable is a commission calculated at the rate of 5%.

**PART 8 — VARIOUS TYPES OF COMPANIES****Certified copy of certificate of incorporation, etc**

61. For the purposes of paragraph 588(2)(a) of the Act, a certified copy of a document referred to in that paragraph shall be a copy that has, within the period of 3 months immediately preceding the day on which it is lodged with the Registrar or within such longer period as the Registrar permits, been certified to be a true copy by a person to whom the custody of the original document is committed under a law in force in the place in which the corporation is formed or incorporated, being a person who exercises under that law functions similar to those exercised by the Registrar.

**Manner of certifying constituent document**

62. For the purposes of paragraph 588(2)(b) of the Act, a certified copy of a constituent document shall be a copy that, within the period of 3 months immediately preceding the day on which it is lodged with the Registrar or within such longer period as the Registrar permits, has been certified to be a true copy —

- (a) by a person to whom the custody of the original document is committed under a law in force in the place in which the corporation is formed or incorporated, being a person who exercises under that law functions similar to those exercised by the Registrar;
- (b) by a notary public; or
- (c) by a director, a secretary or the principal executive officer of the foreign company —

- (i) in the case of a foreign company formed or incorporated within Australia or an external Territory, by a statement in writing; or
- (ii) in any other case, by affidavit.

**Notice in writing of change or alteration lodged in accordance with paragraph 591(2)(a), (e) or (f) of the Act**

**63. (1)** A notice in writing containing particulars of a change or alteration, in accordance with paragraph 591(2)(a) of the Act, shall have annexed to it a copy of the instrument effecting the change or alteration or a copy of the document as changed or altered, being a copy that is certified to be a true copy of that instrument or document by a person mentioned in paragraph 62(a), (b) or (c).

**(2)** A notice in writing containing particulars of a change or alteration, in accordance with paragraph 591(2)(e) of the Act, shall have annexed to it —

- (a) a copy of the certificate of incorporation or registration of the registered foreign company, or a document of similar effect, being a certificate or document evidencing the change or alteration; or
- (b) where no such certificate or document exists, a copy of the instrument effecting the change or alteration,

being a copy that is certified by a person mentioned in paragraph 62(a), (b) or (c) to be a true copy of that certificate, document or instrument, as the case may be.

**(3)** A notice in writing containing particulars of a change or alteration, in accordance with paragraph 591(2)(f) of the Act, shall be accompanied by a memorandum in writing executed by or on behalf of the foreign company stating the powers of the local directors as changed or altered.

**Manner of sending letter under subsection 595(1) of the Act**

**64.** For the purposes of subsection 595(1) of the Act, a letter shall be sent by post.

**Manner of sending letter under subsection 595(2) of the Act**

**65.** For the purposes of subsection 595(2) of the Act, a letter shall be sent by registered mail.

**PART 9 — PAYMENTS, DEPOSITS AND DELIVERIES BY LIQUIDATOR**

**Payment into liquidator's general account**

**66.** A liquidator shall, unless otherwise directed by the Court or the committee of inspection, open a bank account to be known as the liquidator's general account, into which he shall pay all money received by him not later than 7 days after it has been received.

**Deposit of securities**

**67.** A liquidator shall deposit in the bank with which he opened the liquidator's general account all bills, notes or other securities payable to the company or the liquidator as soon as possible after they are received by him, in order that they be presented by the bank for acceptance and payment, or payment, as the case requires.

**Delivery of securities**

**68.** All bills, notes or other securities deposited in a bank in accordance with regulation 67 shall be delivered out on the signed request of the liquidator.

**Special bank account**

**69. (1)** The Court may give directions with respect to the payment, deposit or custody of money payable to or into the possession of a liquidator or of bills, notes or other securities so payable.

**(2)** Where an application is made to the Court to authorise the liquidator to make payments into and out of a special bank account, the Court may authorise the payments for such time and on such terms as it thinks fit and may at any time order the special bank account to be closed, if it is of the opinion that the account is no longer required.

**(3)** An office copy of every order of the Court under subregulation (2) shall be served by the liquidator on the bank with which the special bank account has been opened.

**Payments out of liquidator's general account**

**70.** All payments out of the liquidator's general account shall be made by cheque, and every cheque shall have the name of the company marked or written on the face of it and shall be signed by the liquidator.

**PART 10 — SPECIAL PROVISIONS APPLICABLE TO CERTAIN MEETINGS**

*Division 1 — Application*

**Application**

- 71. (1)** The provisions of this Part do not apply to, or in relation to —
- (a) a meeting of the directors of a company;
  - (b) a meeting of the members of a company, other than a meeting referred to in paragraph (2)(a);
  - (c) a meeting referred to in paragraph (2)(a) or (b) - where inconsistent with a specific requirement of the Act, these Regulations or the rules; or
  - (d) a meeting referred to in paragraph (2)(b) - where inconsistent with a specific requirement of the covenants contained in the relevant debentures or trust deed.
- (2)** Subject to subregulation (1), the provisions of this Part apply to and in relation to the convening and conduct of, and to the voting at —
- (a) a meeting convened in pursuance of Part 21 or 22 of the Act, that is —
    - (i) a meeting of members, creditors or contributories of a company;
    - (ii) a joint meeting of creditors and members of a company; or
    - (iii) a meeting of a committee of inspection; and
  - (b) a meeting of holders of debentures summoned in pursuance of a covenant contained, or deemed under paragraph 223(1)(c) of the Act to be contained, in the trust deed.

*Division 2 — Convening and Holding of Meetings and Voting at Meetings*

**Notice of meetings**

**72. (1)** The person convening a meeting shall give not less than 7 days' notice of the time and place of a meeting, other than a meeting of a committee of inspection, by advertisement in a newspaper circulating generally in Norfolk Island and shall, subject to subregulations (6) and (7), not less than 14 days before the day appointed for a meeting, including a meeting of a committee of inspection, send notice in writing of the meeting by registered post, or deliver it personally, to every person appearing by the company's books or otherwise to be —

- (a) in the case of a meeting referred to in subparagraph 71(2)(a)(i) - a member, creditor or contributory of the company;
- (b) in the case of a meeting referred to in subparagraph 71(2)(a)(ii) - a creditor or member of the company;
- (c) in the case of a meeting referred to in subparagraph 71(2)(a)(iii) - a member of the committee of inspection; or
- (d) in the case of a meeting referred to in paragraph 71(2)(b) - a holder of a debenture,

as the case requires.

**(2)** The notice referred to in subregulation (1) shall be —

- (a) where convening a meeting of creditors under subsection 499(1) of the Act - in accordance with a form provided by the Registrar; or
- (b) in any other case - in accordance with a form provided by the Registrar.

**(3)** In respect of a joint meeting of the creditors and members of a company, notices of the meeting shall be sent to the creditors of the company simultaneously with the notices sent to its members.

**(4)** A notice to a creditor shall be sent to the address given in his proof of debt or claim or, if he has not lodged a proof, to the address given in the report as to the affairs of the company or to such other address as may be known to the person convening the meeting.

**(5)** A notice to a person entitled in accordance with paragraph (1)(a), (b), (c) or (d) to receive notice of a meeting shall be sent to the address mentioned in the company's books as the address of the member, creditor, contributory or debenture holder, or to such other address as may be known to the person convening the meeting.

**(6)** Where a liquidator is of the opinion that it is appropriate to do so, he may convene a meeting of the committee of inspection appointed for the purposes of that winding up by giving less than 14 days' notice in accordance with subregulation (1) of the meeting.

**(7)** Where all the persons who are entitled both to be present and to vote at a meeting agree, the meeting may be held notwithstanding that it was not convened in accordance with these Regulations.

**Proof of notice**

**73.** A statement in writing in accordance with a form provided by the Registrar by the person convening a meeting or by some person acting on his behalf that notice of the meeting was duly sent by registered post shall be sufficient evidence, in the

absence of evidence to the contrary, of a notice having been sent to a person at the address specified in the notice in respect of that person.

### **Place of meeting**

74. A meeting shall be convened at a date, time and place that, in the opinion of the person convening the meeting, are most convenient for the majority of persons entitled to receive notice of the meeting.

### **Costs of convening a meeting of creditors or contributories or of a committee of inspection**

75. (1) The costs of convening a meeting of creditors or contributories at the request of any person other than a liquidator or official manager shall be paid by the person upon whose request the meeting is convened and that person shall, before the meeting is convened, deposit with the liquidator or official manager such sum as may be required by the liquidator or official manager as security for the payment of costs.

(2) Where the Court so orders, or the committee by resolution so directs, the costs of convening a meeting of a committee of inspection shall be repaid out of the assets of the company to the person causing it to be convened.

### **Quorum**

76. (1) Subject to subregulation (2), a meeting shall not act for any purpose except the election of a chairman, the proving of debts, and the adjournment of the meeting, unless there are present, in person or by proxy —

- (a) where the number of persons entitled to vote exceeds 2, at least 2 of those persons; or
- (b) where only one person is, or 2 persons are, entitled to vote - that person or those persons.

(2) A meeting shall be sufficiently constituted if only one person is present in person at the meeting, whether that person is a member, creditor or contributory, liquidator, the official manager or chairman, or any other person, if the person represents personally or by proxy or otherwise a number of persons sufficient to constitute a quorum.

(3) If within 30 minutes after the time appointed for the meeting a quorum is not present or the meeting is not otherwise sufficiently constituted, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other day (not being less than 7 or more than 21 days after the day on which the meeting is adjourned) and at such other time and place as the chairman may appoint.

(4) If within 30 minutes after the time appointed for the adjourned meeting a quorum is not present or the meeting is not otherwise sufficiently constituted, the adjourned meeting shall lapse.

### **Chairman**

77. (1) In relation to a meeting convened by a liquidator, a provisional liquidator or an official manager, the liquidator, provisional liquidator, official manager, or a person nominated by him, shall be chairman of the meeting.

(2) In any other case, the persons present and entitled to vote at a meeting shall elect one of their number to be chairman of the meeting.

**Adjournment of meeting**

**78. (1)** The chairman of a meeting shall, if so directed by the meeting, or may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

**(2)** An adjourned meeting shall be held at the original place of the meeting unless —

- (a) in the resolution for adjournment another place is specified;
- (b) the Court otherwise orders;
- (c) the liquidator, provisional liquidator or official manager of the company otherwise orders; or
- (d) the original place of the meeting is unavailable, in which case the chairman may appoint another place.

**Voting on resolutions**

**79. (1)** A resolution put to the vote of a meeting shall be decided on a show of hands unless, subject to subregulation (5), a poll is, before or on the declaration of the result of the show of hands, demanded —

- (a) by the chairman;
- (b) by at least 2 persons present in person or by proxy and entitled to vote at the meeting;
- (c) by a person present in person or by proxy and representing not less than 10% of the total voting rights of all the persons entitled to vote at the meeting; or
- (d) in respect of a meeting of members, by a member or members holding shares in the company conferring a right to vote at a meeting, being shares on which an aggregate sum has been paid up equal to not less than 10% of the total sum paid up on all the shares conferring that right.

**(2)** Unless a poll is so demanded, the chairman shall declare that a resolution has, on a show of hands, been carried, carried unanimously, carried by a particular majority, or lost, as the case may be.

**(3)** The declaration referred to in subregulation (2) is, unless a poll is demanded, conclusive evidence of the result to which it refers, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

**(4)** The demand for a poll may be withdrawn.

**(5)** A vote taken at a joint meeting of creditors and members of a company shall be decided on a show of hands.

**Taking a poll**

**80. (1)** If a poll is duly demanded —

- (a) the manner in which it is to be taken; and
- (b) the time at which it is to be taken, whether at once or after an interval or adjournment,

shall, subject to subregulation (2), be determined by the chairman.



(2) A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith.

### **Carrying of resolutions after a poll has been duly demanded**

81. (1) After a poll has been duly demanded at a meeting of creditors or debenture holders, a resolution is carried when a majority in number and value of those present and voting either in person or by proxy on the resolution have voted in favour of the resolution.

(2) At a meeting of contributories or members, in computing the majority on a poll demanded on the question that a resolution be carried, reference shall be had to the number of votes cast for and against the resolution and to the number of votes to which each member is entitled by the Act or the articles of the company.

### **Casting vote**

82. Where there is an equality of votes the chairman of a meeting, in addition to his deliberative vote, if any, shall have a casting vote.

### **Creditors who may vote**

83. (1) A person shall not be entitled to vote as a creditor at a meeting of creditors unless —

- (a) his debt or claim has been admitted wholly or in part by the liquidator or official manager; or
- (b) he has lodged, with the chairman of the meeting or with the person named in the notice convening the meeting as the person who may receive particulars of the debt or claim, those particulars or, where required, a formal proof of the debt or claim in respect of which he claims payment from the company.

(2) A creditor shall not vote in respect of any unliquidated or contingent debt or claim or any debt the value of which is not ascertained unless a just estimate of its value has been made.

(3) A creditor shall not vote in respect of any debt or claim on or secured by a bill of exchange, promissory note, or any other negotiable instrument or security held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the company, who is not an insolvent under administration or against whom a winding up order has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his debt or claim.

### **Votes of secured creditors**

84. (1) For the purposes of voting, a secured creditor shall, unless he surrenders his security, state in his proof of debt or claim the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance, if any, due to him after deducting the value of his security as assessed by him in accordance with regulation 101.

(2) If a secured creditor votes in respect of his whole debt or claim he shall be deemed to have surrendered his security unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

### **Creditors may be required to give up security**

85. (1) A liquidator may, within 28 days after a secured creditor has voted in accordance with subregulation 84(1), in respect of the balance of his debt or claim,

require the creditor to give up the security for the benefit of creditors generally on payment of its value as assessed by the creditor.

(2) Where a creditor has, for the purposes of subregulation 84(1), assessed the value of his security, the creditor may with the leave of the liquidator, at any time before being required to give it up under subregulation (1), reassess the value of the security and the new value shall be deducted from his debt or claim.

### **Admission and rejection of proofs for purposes of voting**

86. (1) The chairman of a meeting shall have power to admit or reject a proof of debt or claim for the purposes of voting.

(2) If the chairman is in doubt whether a proof of debt or claim should be admitted or rejected he shall mark that proof as objected to and allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

(3) A decision by the chairman to admit or reject a proof of debt or claim for the purposes of voting may be appealed against to the Court within 14 days after the decision.

### **Minutes of meeting**

87. (1) Within one month of a meeting, the chairman shall cause minutes of the proceedings to be drawn up and entered in a record kept for the purpose, and the minutes shall, after entry, be signed by him.

(2) A record of those persons present in person or by proxy at a meeting shall be prepared and kept in accordance with a form provided by the Registrar.

(3) The chairman at a meeting, other than a meeting of debenture holders, shall, within a period of one month after the meeting, lodge with the Registrar a copy of the minutes of the meeting certified by the chairman to be a true copy.

(4) The official manager, after a meeting of creditors or members, shall cause the minutes entered and record of the persons present at the meeting prepared in accordance with this regulation to be made available for inspection by creditors or members at the registered office or principal place of business of the company in Norfolk Island.

(5) The liquidator shall cause the minutes entered and record of persons present at the meeting prepared under this regulation to be made available at the principal place in Norfolk Island at which he practises, for inspection by creditors or contributories.

### *Division 3 — Appointment of Proxies and their Attendance at Meetings*

#### **Appointment of proxies**

88. (1) A person entitled to attend and vote at a meeting may appoint a natural person over the age of 18 years (whether entitled to attend and vote at the meeting or not) as his proxy to attend and vote at the meeting.

(2) A proxy appointed under this regulation shall have the same right to speak at the meeting and, subject to regulation 89, to vote, as the person appointing him.

**Instruments of proxy**

89. An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.

**Proxy forms to accompany notice of meetings**

90. A person convening a meeting shall send with each notice of the meeting a form of proxy, and shall ensure that neither the name or description of the liquidator (if any) nor of any other person is printed or inserted in the body of the form of proxy before it is sent out.

**Form of proxies**

91. (1) The appointment of a person as a proxy shall be by an instrument in accordance with a form provided by the Registrar.

(2) The person appointing the proxy shall sign the instrument of proxy, or, where incapable of writing, attach his mark to it.

(3) The proxy of a person who is blind or incapable of writing shall not be accepted unless the person attaches his signature or mark to the instrument appointing the proxy after it has been completed and read to him by a witness to his signature or mark (not being the person nominated as proxy) who completes the certificate set out in a form provided by the Registrar.

**Liquidator, provisional liquidator, official manager or chairman may act as proxy**

92. A person may appoint the liquidator, provisional liquidator, official manager or chairman of a meeting, by name or by reference to his office, to act as his general or special proxy.

**Voting by proxy where financially interested**

93. (1) Subject to subregulation (2), a person acting under a general or special proxy shall not vote in favour of any resolution which would directly or indirectly place him, his partner or his employer in a position to receive any remuneration out of assets of the company otherwise than as a creditor rateably with the other creditors of the company.

(2) Where a person holds a special proxy to vote for an application to the Court in favour of his appointment as liquidator, he may use the proxy and vote accordingly.

**Liquidator, official manager or trustee may appoint deputy**

94. Where a liquidator, official manager or trustee for debenture holders who holds a proxy cannot attend the meeting for which it is given, he may, in writing, depute some person to use the proxy on his behalf in such manner as he may direct, subject, in the case of a special proxy, to its terms, but so that the provisions of regulation 93 are observed as would be the case if the liquidator were acting in person as proxy.

**Proxies appointed by a corporation**

95. A document purporting to be a copy of a resolution under subsection 309(6) of the Act authorising a person to act as proxy at a meeting shall be conclusive evidence of his authority to do so if it has been verified or is under the seal of the corporation.

**Time for lodging proxies**

96. An instrument appointing a proxy, or any other document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, shall not be required to be received more than 48 hours before the meeting by the person named in the notice convening the meeting as the person who is to receive that instrument or document.

**PART 11 — PROOF OF DEBTS, CLAIMS OR TITLES TO PRIORITY****Establishing title to priority**

97. This Part applies to the establishment of a title to priority as if it were a debt or claim.

**Proof of debts or claims**

98. (1) It shall not be necessary for creditors of a company formally to prove their debts or claims unless the liquidator requires such proof by a notice in writing under subregulation 108(1).

(2) In this Part or Part 10, unless the contrary intention appears, “proof of debt or claim” includes a statement of particulars of a debt or claim submitted in accordance with regulation 99, as well as a formal proof of debt or claim.

**Notice to submit particulars of debts or claims**

99. (1) A liquidator may from time to time fix a day, which shall not be less than 14 days after the day on which notice is given in accordance with subregulation (2), on or before which creditors may submit particulars of their debts or claims.

(2) A liquidator shall, at least once, give notice in writing, in accordance with a form provided by the Registrar, of a day fixed under subregulation (1), by advertisement in a newspaper circulating in Norfolk Island.

**Preparation of a proof of debt or claim**

100. (1) A proof of debt or claim may be prepared by the creditor himself or by some person authorised by or on behalf of the creditor.

(2) A proof prepared by an authorised person shall state his authority and means of knowledge.

**Disclosure of security**

101. A proof of debt or claim shall state whether the creditor is or is not a secured creditor, the value and nature of his security (if any), and whether the debt is secured wholly or in part.

**Discounts**

102. In preparing a proof of debt or claim, a creditor shall make an allowance for all discounts for which an allowance would have been made if the company were not being wound up.

**Periodical payments**

103. (1) Where any rent or other payment falls due at stated times, and the relevant date is at any time other than one of those times, the person entitled to the rent or other payment may submit a proof of debt or claim for a proportionate part of the rent or other payment up to the date of the winding up order or resolution, as the case may be, as if the rent or payment accrued from day to day.

(2) Where the liquidator remains in control of premises rented to a company which is being wound up, subregulation (1) shall not prejudice or affect the right of the landlord of those premises to claim payment of rent by the company or the liquidator during the period of the company's occupation or the liquidator's control.

#### **Debt or claim payable at a future time**

104. (1) Subject to subregulation (2), a debt or claim not payable at the relevant date may be admitted by the liquidator as if it were payable at that date and the creditor making the claim may receive dividends equally with the other creditors.

(2) A debt or claim admitted for payment under subregulation (1) shall be subject to a deduction at the rate of 8% per annum calculated from the declaration of the dividend to the time when the debt would have become payable according to the terms on which it was contracted.

#### **Employees' wages**

105. (1) In any case in which it appears that there are numerous demands for wages or salaries (whether or not earned wholly or in part by way of commission) of employees of the company, or for remuneration payable to those employees in respect of annual leave or long service leave, it shall be sufficient if one proof of debt or claim is prepared and submitted on behalf of those persons.

(2) Where a proof of debt or claim is prepared and submitted under subregulation (1), it shall have annexed to it a schedule setting out the names of the employees and the amounts due to each of them.

(3) A proof to which this regulation refers shall have the same effect as if separate proofs had been prepared and submitted by each of the employees named in that schedule.

#### **Production of bills of exchange and promissory notes**

106. A bill of exchange, promissory note, or any other negotiable instrument or security on which the company is, or may become, liable, shall, subject to any order of the Court, be produced to the liquidator before a proof of debt or claim in respect of that liability can be admitted for voting or for any other purpose.

#### **Admission of debts or claims without formal proof**

107. (1) A liquidator may decide to admit a debt or claim without formal proof where he is satisfied that the debt or claim is valid.

(2) Where a liquidator admits a debt or claim without formal proof, it shall not be necessary for him formally to admit the debt or claim in writing.

(3) Where a creditor's debt or claim has been admitted without formal proof, a notice of dividend shall be a sufficient notification of the admission of that debt or claim.

(4) A liquidator shall not reject a debt or claim without notifying the creditor of the grounds of his rejection and requiring that a formal proof of debt or claim be submitted in respect of that debt or claim.

#### **Notice to creditors to submit formal proofs**

108. (1) A liquidator may from time to time fix a day, which shall be not less than 14 days after the day on which notice is given in accordance with subregulation (2), on or before which the creditors of the company whose debts or claims have not been admitted are formally to prove their debts or claims.

(2) A liquidator shall give notice in writing, in accordance with a form provided by the Registrar, of a day fixed under subregulation (1) —

- (a) by advertisement in a newspaper circulating in Norfolk Island;
- (b) by advertisement in a daily newspaper circulating generally in any other State or Territory in which the company carried on business at any time during the 2 years immediately preceding the relevant date; and
- (c) to every person who, to the knowledge of the liquidator, claims to be a creditor of the company, and whose debt or claim has not been admitted.

(3) Those creditors of the company who fail to comply with a requirement of a liquidator under subregulation (1) shall be excluded from the benefit of any distribution made before their debts or claims are admitted, and from objecting to such a distribution.

#### **Formal proof of debt or claim**

109. (1) A debt or claim may be formally proved by delivering or sending by post to the liquidator a formal proof of debt or claim.

(2) Subject to subregulation (3), a formal proof of debt or claim shall be in accordance with a form provided by the Registrar.

(3) A formal proof of debt or claim prepared and submitted in accordance with regulation 105 shall be in accordance with a form provided by the Registrar.

#### **Contents of formal proof of debt or claim**

110. (1) A formal proof of debt or claim shall contain detailed particulars of the debt or claim sought to be proved, including, in the case of a debt, a statement of account, and shall specify the vouchers, if any, by which that statement can be substantiated.

(2) The liquidator may at any time call for the production of the vouchers referred to in subregulation (1).

#### **Costs of proof**

111. A creditor shall bear the cost of proving his debt or claim, or of amending a proof of debt or claim, unless the Court otherwise orders.

#### **Liquidator to notify receipt of proof of debt or claim**

112. Where a liquidator is requested to do so by the person submitting a proof of debt or claim, he shall notify that person of the receipt of that proof and whether or not it has been admitted under regulation 107.

#### **Time for liquidator to deal with proofs**

113. (1) Within 28 days after receipt of a request in writing from a creditor to do so, or such further period as the Registrar allows, the liquidator shall, in writing, admit the formal proof of debt or claim submitted by the creditor or reject it, wholly or in part, or require further evidence in support of it.

(2) If the liquidator does not within 28 days after receipt of a request after subregulation (1), or such further period as the Registrar allows, deal with that request in accordance with that subregulation, the creditor who submitted the proof may apply to the Court for a decision in respect of it.

(3) If the liquidator gives notice in writing to a creditor from whom a request in writing has been received under subregulation (1), that further evidence is required in support of the formal proof of debt or claim submitted by the creditor, the period of 28 days referred to in subregulation (1) shall be deemed not to have commenced to run until the day on which the liquidator receives a sufficient written answer to his notice.

#### **Grounds of rejection and notice to creditor**

**114. (1)** Within 7 days after the liquidator has rejected a formal proof of debt or claim in whole or in part, he shall notify the creditor, in accordance with subregulation (4), of the grounds for that rejection, and shall at the same time give notice to the creditor —

- (a) that he may appeal to the Court against the rejection within a time specified in the notice, being not less than 14 days after service of the notice, or such further period as the Court allows; and
- (b) that unless he appeals in accordance with paragraph (a) the amount of his debt or claim will be assessed in accordance with the liquidator's endorsement on the creditor's proof.

(2) A person may appeal against the rejection of a formal proof of debt or claim within the time specified in the notice of the grounds of rejection or such further period as the Court allows.

(3) The Court may extend the time for filing an appeal under subregulation (2), even though the period specified in the notice has expired.

(4) A notice for the purposes of subregulation (1) shall be in accordance with a form provided by the Registrar.

(5) Where the liquidator has admitted a formal proof of debt or claim, the notice of dividend shall be a sufficient notification of the admission.

#### **Revocation or amendment of decision of liquidator**

**115. (1)** Where the liquidator considers that a proof of debt or claim has been wrongly admitted, he may —

- (a) revoke the decision to admit the proof and reject it in whole; or
- (b) amend the decision to admit the proof by increasing or reducing the amount of the admitted debt or claim.

(2) Where the liquidator considers that a proof of debt or claim has been wrongly rejected in whole, he may —

- (a) revoke the decision to reject the proof of debt or claim; and
- (b) admit the proof in whole or admit the proof in part and reject it in part.

(3) Where the liquidator revokes a decision to admit a proof of debt or claim and rejects it in whole, or amends such a decision by reducing the amount of the admitted debt or claim —

- (a) he shall inform the creditor by whom it was lodged, in writing, of his grounds for the revocation or amendment; and
- (b) the creditor shall forthwith repay to the liquidator any amount received by way of dividend in respect of the proof or any amount received by way of dividend in excess of the amount that the

creditor would have been entitled to receive if his debt or claim had been originally admitted for the reduced amount, as the case requires.

(4) Where the liquidator revokes a decision to reject a proof of debt or claim in whole, or amends a decision to admit a proof of debt or claim in part, by increasing the amount of the admitted debt or claim, the creditor by whom it was lodged is entitled to be paid, out of available money for the time being in the hands of the liquidator, the dividends or additional amounts of dividend, as the case may be, that the creditor would have been entitled to receive if the debt or claim had been originally admitted in whole or for the increased amount, as the case may be, before the available money is applied in the payment of a further dividend, but the creditor is not entitled to disturb the distribution of any dividends declared before the liquidator revoked or so amended the decision.

#### **Withdrawal or variation of proof of debt or claim**

116. A proof of debt or claim may be withdrawn, reduced in amount or otherwise varied by a creditor with the consent of the liquidator.

#### **Oaths**

117. For the purpose of any of his duties in relation to admitting a debt or claim, the liquidator, in a winding up by the Court, may administer affirmations or oaths and take affidavits.

### **PART 12 — SETTLEMENT OF LIST OF CONTRIBUTORIES BY LIQUIDATOR**

#### **Liquidator to make out provisional list of contributories**

118. Where the liquidator of a company considers it necessary to make calls on or adjust the rights of contributories, he shall, as soon as practicable, make out a provisional list of contributories in accordance with a form provided by the Registrar.

#### **Time and place for settlement of list**

119. (1) The liquidator shall give to each person included in the provisional list of contributories not less than 14 days' notice in writing, in accordance with a form provided by the Registrar, of the time and place appointed to settle that list.

(2) The liquidator or some person acting on his behalf shall lodge with the Registrar a statement in writing in accordance with a form provided by the Registrar that notice under subregulation (1) was given to each person included in the provisional list of contributories, and that statement shall be evidence, in the absence of evidence to the contrary, of that notice having been duly sent to a person specified in the list at the address specified in respect of that person.

#### **Settlement of list of contributories**

120. (1) Before settling the list of contributories, the liquidator shall hear and determine any objection by a person to being included in that list as a contributory.

(2) The liquidator shall settle the list of contributories and certify it, in accordance with a form provided by the Registrar, at the time and place specified in the notice given under regulation 119.

#### **Supplementary list**

121. (1) The liquidator may at any time —
- (a) make out a provisional supplementary list of contributories in accordance with a form provided by the Registrar; and



- (b) settle and certify a supplementary list of contributories in accordance with a form provided by the Registrar,

varying or adding to the list of contributories.

(2) Regulation 119 and subregulation 120(1) apply in relation to the making out, or settling and certifying, under subregulation (1), or a supplementary list by the liquidator.

#### **Notice to contributories**

122. (1) Within 14 days after the settlement of the list, or any supplementary list, of contributories of the company, the liquidator shall notify each person included in that list or supplementary list of his inclusion and shall at the same time give him notice that he may appeal to the Court against his inclusion within 21 days after service of the notice, or such further period as the Court allows.

(2) A person may appeal against his inclusion in the list, or any supplementary list, of contributories of the company, within 21 days after the service on him, under subregulation (1), of the notice of his inclusion, or such further period as the Court allows.

(3) The Court may extend the time for filing an appeal under subregulation (2), even though the period of 21 days specified in subregulation (1) has expired.

(4) A notice for the purposes of subregulation (1) shall be in accordance with a form provided by the Registrar.

(5) The liquidator or some person acting on his behalf shall lodge with the Registrar a statement in writing in accordance with a form provided by the Registrar that notice under subregulation (1) was given to each person placed on the list or any supplementary list of contributories, and that statement shall be sufficient evidence, in the absence of evidence to the contrary, of that notice having been duly sent to a person specified in the list at the address specified in respect of that person.

### **PART 13 — DIVIDENDS AND DISTRIBUTION OF SURPLUS IN A WINDING UP**

#### *Division 1 — Payment of Dividends*

#### **Dividend payable only on admission of a debt or claim**

123. A dividend in the winding up of the affairs of a company shall not be paid to any person except a creditor whose debt or claim, at the date of the distribution of dividends, has been admitted by the liquidator.

#### **Application of Part 11**

124. For the purposes of this Part, Part 11 applies in relation to the formal proof of a debt or claim and in relation to the rejection, and to appeals against the rejection, in whole or in part, of a formal proof of a debt or claim.

#### **Liquidator to give notice of intention to declare a dividend**

125. (1) The liquidator shall give notice of his intention to declare a dividend not more than 2 months before the intended date —

- (a) by publishing a notice in the *Gazette* in accordance with a form provided by the Registrar; and

- (b) in writing, in accordance with a form provided by the Registrar or, in the case of a final dividend, in accordance with another form provided by the Registrar, to any person —
- (i) in the case of a winding up by the Court, shown as a creditor in the report as to the affairs of the company made out under subsection 479(1) of the Act;
  - (ii) in the case of a members' voluntary winding up, appearing by the company's records to be a creditor;
  - (iii) in the case of a creditors' voluntary winding up, shown as a creditor in the list of creditors prepared in accordance with subparagraph 501(2)(a)(ii) of the Act; or
  - (iv) who to the knowledge of the liquidator claims to be, or might claim to be, a creditor of the company,
- being a person whose debt or claim has not been admitted.

(2) A notice given in accordance with subregulation (1) shall specify a date, not less than 21 days after the date of the notice, on or before which formal proof of a debt or claim must be submitted for the purpose of participation in the distribution.

(3) Subject to regulation 128, a person, claiming to be a creditor, who does not submit a formal proof of a debt or claim on or before the date specified in the notice given under subregulation (1), shall be excluded from participation in the distribution to which that notice relates.

#### **Time allowed for dealing with formal proofs of debt or claim**

**126. (1)** Where the liquidator has given notice in accordance with subregulation 125(1) of his intention to declare a dividend, he shall —

- (a) within 14 days after the date specified, in accordance with subregulation 125(2), in that notice; or
- (b) within such further period as the Registrar allows,

in writing —

- (c) admit a formal proof of debt or claim received by him before the end of that period, reject it, admit it in part and reject it in part, or require further evidence in support of it; and
- (d) give notice of his decision to the creditor who submitted the proof.

(2) Where, within whichever period is applicable pursuant to paragraph (1)(a) or (b) or subregulation (3), the liquidator does not, in writing, deal with a formal proof of debt or claim in accordance with paragraphs (1)(c) and (d), the creditor who submitted the proof may apply to the Court for a decision in respect of it.

(3) Where the liquidator gives notice to a creditor that further evidence is required in relation to a formal proof of debt or claim submitted by the creditor —

- (a) the liquidator shall, in writing, deal with the formal proof of debt or claim in accordance with paragraphs (1)(c) and (d), within whichever period referred to in paragraph (1)(a) or (b) is applicable; and

- (b) that period shall be deemed not to have commenced to run until the day on which the liquidator receives a sufficient written answers to his request.

#### **Declaration and distribution of dividends**

**127. (1)** The liquidator shall, as soon as practicable, declare and distribute dividends among the creditors whose debts or claims have been admitted.

**(2)** Subject to the retention of such sums as are necessary to meet the costs of administration or to give effect to the provisions of the Act, the liquidator shall distribute as dividend all moneys in hand.

**(3)** Where the liquidator declares a dividend, he shall send a notice of that declaration, in accordance with a form provided by the Registrar, to every person entitled to receive payment of the dividend.

#### **Rights of creditor who has not proved debt before declaration of dividend**

**128.** A creditor whose debt or claim has not been admitted before the declaration of a dividend is entitled, on his debt or claim being admitted, to be paid, out of any available money for the time being in the hands of the liquidator, dividends that he has failed to receive before that money is applied to the payment of a further dividend, but he is not entitled to disturb the distribution of a dividend declared before his debt or claim was admitted.

#### **Postponement of declaration**

**129.** Where the liquidator postpones the declaration of a dividend beyond the date specified for that purpose in the notice in accordance with a form provided by the Registrar published by him in the Gazette, he shall publish a further notice in the Gazette, in accordance with that form, of his intention to declare a dividend.

#### **Payment of dividend to a person named**

**130.** A person to whom a dividend is payable may lodge with the liquidator an authority in accordance with a form provided by the Registrar, and the liquidator shall pay the dividend to the person to whom payment is directed by that authority.

#### *Division 2 — Distribution of Surplus*

#### **Distribution of surplus in a winding up by the Court**

**131. (1)** An order in a winding up by the Court by which the liquidator is authorised to distribute any surplus among the persons entitled to it shall, unless the Court otherwise directs, have annexed to the order a schedule in accordance with a form provided by the Registrar.

**(2)** The liquidator shall send to each of the persons among whom any surplus is distributed a notice in accordance with a form provided by the Registrar.

#### **Distribution of surplus as directed**

**132.** A person who receives a notice of distribution of surplus in accordance with subregulation 131(2) may lodge with the liquidator an authority in accordance with a form provided by the Registrar, and the liquidator shall distribute that surplus to the person to whom payment is directed by that authority.

### **PART 14 — MISCELLANEOUS**

#### **Penalty**

**133.** A person who —

- (a) does that which by or under these Regulations he is forbidden to do;
- (b) does not do that which by or under these Regulations he is required or directed to do; or
- (c) otherwise contravenes or fails to comply with any provision of these Regulations,

is guilty of an offence.

Penalty: 2.5 penalty units.

#### **Prescribed period for appeals from decisions of the Registrar**

**134.** For the purposes of section 621 of the Act, the prescribed period is 21 days.

#### **Certified translations of instruments**

**135. (1)** For the purposes of section 630 of the Act, a certified translation is a translation that —

- (a) in the case of a translation made outside Norfolk Island —
  - (i) is certified by a person to whom the custody of the original instrument, certificate, contract or document is committed under a law in force in the place in which the corporation is formed or incorporated, being a person who exercises under that law functions similar to those exercised by the Registrar under the Act;
  - (ii) is certified by a notary public or a translator public duly admitted and sworn in accordance with the law of the place in which the corporation is formed or incorporated; or
  - (iii) is certified by an Australian consular officer in the place in which the corporation is formed or incorporated; or
- (b) in the case of a translation made in Norfolk Island - is certified, by a person approved by the Registrar, as a correct translation into the English language.

**(2)** The Registrar may, before accepting a translation for lodgment, require the person lodging the translation to furnish to the Registrar such evidence as the Registrar thinks sufficient of the ability of the person by whom the translation is made to make the translation.

**(3)** In this regulation, “Australian consular officer” means a person appointed to hold or act in any of the following offices (being offices of the Commonwealth) in a country or place outside Australia:

- (a) Ambassador;
- (b) High Commissioner;
- (c) Minister;
- (d) Head of Mission;
- (e) Commissioner;
- (f) Charge d’affaires;
- (g) Counsellor or Secretary at an Embassy, High Commission or other post;

- (h) Consul-General;
- (i) Consul or Vice-Consul;
- (j) Pro-Consul;
- (k) Trade Commissioner;
- (l) Consular agent.

**Prescribed fees**

**136.** The fees payable for the purposes of section 636 of the Act are the fees specified in Schedule 8 in relation to the respective matters so specified.

**Prescribed offences and penalties**

**137. (1)** For the purposes of section 661 of the Act, a prescribed offence is an offence committed under or in relation to a provision of the Act, being a provision that is specified in Column 2 of Schedule 9.

- (2) For the purposes of section 661 of the Act, the prescribed penalty in respect of a prescribed offence is the penalty specified in Column 3 of Schedule 9 opposite the provision specified in Column 2 under or in relation to which the offence has been committed.

**Prescribed penalty notice**

**138.** For the purposes of section 661 of the Act, the notice specified in Schedule 10 is prescribed.

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**SCHEDULE 1**
*Regulation 3***LIST OF FORMS**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of the Act</b>	<b>Provision of Regulations</b>	<b>Description of form</b>	<b>No. of form</b>
	Regulation 11	Verification or certification of documents or copies of documents	1
Subsection 122A(1)		Application for transfer for incorporation	48
Subsection 122A(3)		Certificate Authorising a Company to Apply for Registration under the Corporations Law	48B
Subsection 122A(3)(e)		Consent to Issuing a Certificate Authorising the Transfer of Incorporation	48C
Subsection 160(1)		Return of allotment of shares	2
Paragraphs 253(1)(a) and (4)(a)		Notice of particulars of charge	3
Subparagraph 254(1)(a)(i)			
Paragraphs 253(1)(c) and (4)(c)		Verification of copy of instrument creating or evidencing a charge	4
Subparagraph 254(1)(a)(iii)			
Subsection 272(1), (2), (3), (4)		Notice in relation to registered office	5
Subsection 275(1)		Consent to act as director	6
Subsection 275(4)		List of persons who have consented to be directors	7
Subsection 299		Particulars and changes of particulars in register of directors, principal executive officer and	8

	secretaries	
Subsection 328(1)	Annual return of a company having share capital	9
Subsection 514(4) and (6)	Return by liquidator relating to final meeting	10
Section 524	Notice of appointment and of address of office of liquidator (winding up by the Court)	11
Section 524	Notice of appointment and of address of office of liquidator (members' voluntary winding up)	12
Section 524	Notice of appointment and of address of office of liquidator (creditors' voluntary winding up)	13
Section 592(12)	Annual return of foreign company	14

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**SCHEDULE 2**  
**FORMS**  
**Norfolk Island**  
**Companies Form 1**

*Regulation 11*

**VERIFICATION OR CERTIFICATION OF DOCUMENTS OR COPIES OF DOCUMENTS**

---

Registration No. ....-.....

(1) ..... Limited  
 I, ..... of .....  
 in my capacity as (2) .....  
 \*verify/\*certify that —

\* the document(s) annexed to this statement and marked .....(3)\*is/\*are the document(s) described in the Schedule.

\* the \*copy/\*copies annexed to this statement and marked .....(3)\*is/\*are\*a true copy/\*true copies of the document(s) described in the Schedule.

**SCHEDULE**

---

Description of document or copy	Provision under which, or for purposes of which, document or copy lodged
---------------------------------	--

---

Dated this ..... day of ..... 20

Signature .....

Name of Signatory in block letters .....

\* Strike out whichever is inapplicable.

(1) State name of corporation to which document relates.

(2) State capacity in which the person undertakes the verification or certification.

(3) Requirements relating to annexures are set out in regulation 7.



**Norfolk Island  
Companies Form 2**

*Subsection 160(1)*

**RETURN OF ALLOTMENT OF SHARES**

Registration No. ....-.....

..... Limited

The shares referred to in this return were allotted (1) \*on the ..... day of ..... 20...../\*between the ..... day of ..... 20..... and the ..... day of ..... 20.....

Details of shares

(2) Shares allotted	Preference	Ordinary	Other (specify class)
<b>1.</b>	<b>For cash consideration</b>		
(a)	No. of shares		
(b)	Nominal amount of EACH share		\$
(c)	Amount (if any) paid on EACH share		\$
(d)	Amount (if any) due and payable on EACH share		\$
(e)	Amount of premium paid or payable on EACH share		\$
<b>2.</b>	<b>For consideration other than cash</b>		
(a)	No. of shares:		
	(i) as fully paid up		
	(ii) as partly paid up		
(b)	Nominal amount of EACH share		\$
(c)	If partly paid up - the amount treated as paid up on EACH share		\$
(d)	Amount of premium treated as paid up or payable on EACH share		\$
(3)	(e) The consideration for which the shares have been so allotted is as follows: .....		

**3.** (4) The names and addresses of the allottees of shares in the company and the numbers and classes of shares allotted to them are as follows:

Surname	(5) Christian or given names	Address	Preference	<u>Number of shares allotted</u>				
				Cash	Other- wise	Ordinary	Other Class	
			Cash	Other- wise	Cash	Other- wise	Cash	Other- wise
			Total					

Dated this                      day of                      20

.....

Signature of \*Director/\*Secretary/\*Principal Executive Officer

Name of Signatory in block letters .....

**CERTIFICATE (6)**

(This certificate need not be completed if paragraph 3 of this form is completed.)

I certify in relation to ..... Limited  
that —

- (a) the company has more than 500 members.
- (b) the company keeps its principal share register at a place in Norfolk Island.
- (c) the company provides reasonable accommodation and facilities for persons to inspect and take copies of its list of members and its particulars of shares transferred; and
- \* (d) the shares referred to in this return were allotted for cash.
- \* (d) the shares referred to in this return were allotted for a consideration other than cash and the number of persons to whom the shares have been allotted exceeds 500.

Dated this                      day of                      20

.....

Signature of \*Director/\*Secretary/\*Principal Executive Officer

Name of Signatory in block letters .....

\*Strike out if inapplicable.

- (1) Shares subscribed for in the Memorandum shall be deemed to have been allotted as at the date of incorporation under subsection 160(5) and must be included in the first return.
- (2) Where the capital of the company is divided into shares of different classes, the class of shares to which each share comprised in the allotment belongs is to be stated. In the case of the first return, shares subscribed for in the memorandum are to be included in this return and identified as such.
- (3) If the allotment is made for shares fully paid or partly paid up otherwise than in cash pursuant to a contract in writing, the company shall lodge with

this return the contract evidencing the entitlement of the allottee or a copy of any such contract certified in accordance with regulation 11.

- (4) Where, by virtue of subsection 160(2), a company does not include in paragraph 3 of this form the particulars mentioned in paragraph 160(1)(d), the company shall complete the certificate set out in this form.
  - (5) Insert all Christian or given names, or at least one Christian or given name and other initials.
  - (6) This certificate must be completed if paragraph 3 of this form is not completed, except where the company lodging the return is a no liability company and the shares referred to in the return were allotted for cash.
-

Norfolk Island  
Companies Form 3

Paragraphs 253(1)(a) and (4)(a)

Subparagraph 254(1)(a)(i)

NOTICE OF PARTICULARS OF CHARGE

Charge No .....

Registration No. ....-.....

Take notice that a charge

\*was created by

\*exists on property acquired by .....

..... Limited, particulars of which are set out below

1. (a) The \*charge was created  
\*property the subject of a charge was acquired  
on ..... 20

(b) The charge is \*fixed/ \*floating/  
\*fixed and floating

(c) (Where the charge is a floating charge)  
\*is restricted  
The creation of subsequent charges \*is not or prohibited

(d) The liability (whether present or prospective) secured by the charge is:  
(describe briefly) .....

(e) The property charges is:  
(describe briefly) .....

(f) The charge is created or evidenced by \*a resolution/\*an instrument/\*a  
deposit/\*conduct: (1)

\*(g) If the charge is constituted by a debenture or debentures, the name of the  
trustee for the debenture holders is:  
(if there is no trustee, say so) .....

\*(h) (If paragraph (g) does not apply or there is no trustee)  
The name of the chargee is: .....

\*(i) The amount, or rate per cent, of the commission, allowance or discount  
paid or made either directly or indirectly by the company to a person in  
consideration of his subscribing or agreeing to subscribe, whether  
absolutely or conditionally, or procuring or agreeing to procure,  
subscriptions, whether absolute or conditional, for any of the debentures  
included in this notice is:

\*(2) 2. The following documents are lodged with this notice:

a copy of *the resolution/each of the resolutions* pursuant to which the *company/foreign company* issued the series of debentures constituting the charge

a statement in writing verifying that the *copy/copies* of the resolution(s) *is/are* a true copy/*true copies*

a copy of the first debenture issued in the series.

a statement in writing verifying the execution of the first debenture

- (3)** 3. The following documents are lodged with this notice:
- (*a copy of*)*the instrument/each instrument* creating or evidencing the charge;
- (4)** a statement in writing verifying that the *copy/copies* of the instrument(s) *is/are* a true copy/*true copies*
- (5)** a statement in writing verifying the execution of each instrument
- (4)** This notice has been lodged in accordance with an exemption granted by the Registrar by instrument in writing in accordance with subsection 267(1). A copy of the instrument is annexed.
- Dated this                    day of                    20
- Signature (6) .....
- \* Strike out if inapplicable
- (1)** A short description of the conduct is to be given.
- (2)** To be used where documents are lodged with the notice in accordance with paragraph 253(1)(b) or (4)(d) or subparagraph 254(1)(a)(ii).
- (3)** To be used where documents are lodged with the notice in accordance with paragraph 253(1)(c) or (4)(c) or subparagraph 254(1)(a)(iii).
- (4)** To be used where a copy is lodged.
- (5)** This statement is not required where the notice lodged is in respect of property acquired by the company that is subject to an existing charge.
- (6)** State capacity in which person signs. See section 263 which states, inter alia, that this notice may be lodged by the company or by any interested person.
-

**Norfolk Island  
Companies Form 4**

*Paragraphs 253(1)(c) and (4)(c)*

*Subparagraph 254(1)(a)(iii)*

**VERIFICATION OF COPY OF INSTRUMENT CREATING OR EVIDENCING A CHARGE**

1. I ..... of ..... state that I am (1) ..... of ..... Limited.

(2) 2. The \*copy/\*copies of the instrument(s) annexed to this statement and marked ....(2)\*is/\*are\*a true copy/\*true copies of the instrument(s) creating or evidencing the charge referred to in the notice in accordance with Form 3 with which this statement is lodged.

(3)\* 3. I was present and saw the execution of the instrument(s).

Dated this ..... day of ..... 20.....

Signature .....

\* Strike out if inapplicable

(1) State capacity in which person supplies the verification.

(2) Requirements relating to annexures are set out in regulation 7.

**Norfolk Island  
Companies Form 5**

*Subsection 272(1), (2), (3), (4)*

**NOTICE IN RELATION TO REGISTERED OFFICE**

Registration No. ....-.....

..... Limited.

Notice is given that —

\* as from the date of incorporation the address of the proposed registered office will be ..... Postcode .....

\* as from the date of commencement of registration the address of the proposed registered office will be ..... Postcode .....

\* as from the ..... day of ..... 20.. the situation of the registered office has been changed from..... to ..... Postcode .....

\* the hours during which the proposed registered office will be open and accessible to the public in accordance with paragraph 271(2)(a).....

\* as from the date of commencement of registration the hours during which the proposed registered office will be open and accessible to the public in accordance with paragraph ..... 271(2)(a) ..... are .....

\* as from the ..... day of ..... 20.. the hours during which the registered office is open and accessible to the public in accordance with paragraph 271(2)(a) are .....

\* as from the ..... day of ..... 20.. the hours during which the registered office is open and accessible to the public in accordance with paragraph 271(2)(a) have been changed to .....

Dated this                    day of    20

.....

Signature of \*Director/\*Secretary/\*Principal Executive Officer/\*of/\*Agent/\*Subscriber

Name of Signatory in block letters .....

\* Strike out if inapplicable

- (1) Where the agent is a company, the form must be signed by a director or secretary or the principal executive officer of the agent.

---

#### TIME FOR LODGMENT

This notice must be lodged:

- (i) in the case of a proposed company - on the lodging of the memorandum of association;
- (ii) in the case of a change of address of registered office - within 7 days after the date of the change;
- (iii) in the case of an application by a foreign company for registration - with the application.

**Norfolk Island  
Companies Form 6**

*Subsection 275(1)*

**CONSENT TO ACT AS DIRECTOR**

Registration No. ....-.....

..... Limited.

\*I/\*We consent to act as director(s) of the company

<b>Full Name</b>	<b>Address</b>	<b>Business occupation</b>
------------------	----------------	----------------------------

Dated this                      day of                      20

Signature(s) .....

Name of Signatory(ies) in block letters: .....

\*      Strike out if inapplicable

**DIRECTIONS**

1.      Where this consent is signed by an agent authorised in writing for the purpose, regulation 43 requires the authority or a verified copy of the authority to be annexed to this consent when it is lodged.
  
2.      Requirements relating to annexures are set out in regulation 7.



Norfolk Island  
Companies Form 7

Subsection 275(4)

LIST OF PERSONS WHO HAVE CONSENTED TO BE DIRECTORS

Registration No. ....-.....

..... Limited.

of .....

..... being (1) ..... one  
of the persons desiring the incorporation of .....

..... Limited  
certify that the persons mentioned below have consented to be directors of that  
company.

Full Name	Address	Business occupation
-----------	---------	---------------------

Dated this                      day of                      20

Signature(s) .....

Name of Signatory(ies) in block letters: .....

(1) State capacity in which person subscribes to the list.

**Norfolk Island  
Companies Form 8**

*Section 299*

**PARTICULARS AND CHANGES OF PARTICULARS IN REGISTER OF DIRECTORS,  
PRINCIPAL EXECUTIVE OFFICER AND SECRETARIES**

---

Registration No. ....-.....

.....Limited.

---

Christian or given names and surnames (in the case of directors, give any former names in brackets)	Address (3)	Other occupations and, in the case of directors, other directorships (4)	Particulars and nature of appointment or change, and relevant date (5)
Directors (1)			
Principal Executive Officer (2)			
Secretaries (2)			

Dated this                      day of                      20

.....  
(6) Signature of \*Director/\*Secretary/\*Principal Executive Officer

Name of Signatory in block letters: .....

**INSTRUCTIONS**

- (1) Paragraph 299(b) requires that a return notifying the Registrar of a person having ceased to be or having become a director contain, with respect to each person who is, at the time of the lodgment of the return, a director of the company, the particulars required to be specified in the register.
- (2) Where a director is also the principal executive officer or a secretary, particulars are to be given under each of the appropriate headings.
- (3) Insert usual residential address.
- (4) Insert particulars of directorships held by the director in other corporations that under the law of Norfolk Island are public companies or subsidiaries of public companies, but not particulars of directorships held by the director in a corporation that, by virtue of section 24 is deemed to be a related corporation. Where a person is a director in one or more subsidiaries of the same holding company, it is sufficient to disclose that the person is the holder of one or more directorships in the group of companies and the group may be described by the name of the holding

company with the addition of the word "Group". If no other directorships are held, say so.

- (5) Insert in relation to a new officer "Appointed" or "In place of (former officer's name)". Insert in relation to a former officer "Died", "Resigned", "Removed", or as the case may be. Where there is no change, insert "continuing".
- (6) This form shall not be signed by an officer shown on it as having resigned.

**TIME FOR LODGMENT**

This return must be lodged within one month after date of incorporation, or within one month after date of incorporation, or within one month after a change takes place (e.g. the appointment of a new officer, or the resignation, removal, etc, of a former officer).

**Norfolk Island  
Companies Form 9**

*Subsection 328(1)*

---

**ANNUAL RETURN OF A COMPANY HAVING SHARE CAPITAL**

---

1. Company name ..... Limited

---

**THE PERIOD TO WHICH THIS ANNUAL RETURN RELATES**

---

2.1\* The annual general meeting of the company held, or deemed to be held in accordance with section 315 in respect of the calendar year 20..., was \*held/\* deemed to be held on ....., 20...

2.2\* No annual general meeting was held before ....., 20..., being the last day within the period required by section 305 in respect of the calendar year 20...

2.3\* An extension of time to hold the annual general meeting to the ..... day of ..... 20... was granted by the Registrar.

\*Strike out if inapplicable

---

3. The previous annual general meeting was held on ....., 20...

---



---

**PARTICULARS RELATING TO COMPANY**

---

4. The address of the registered office of the company is

---

5. The address of the place at which the register of members is kept, if other than at the registered office, is:

---

6. The business names (if any) under which the company carries on business are:

---

7. The nature of the principal business carried out by the company is:

---

---

**THE ACCOUNTS OF THE COMPANY FOR ITS LAST FINANCIAL YEAR**


---

8. From ..... to ....., 20...

---

8.1 The accounts of the company \*were laid/\*were not laid before the annual general meeting referred to above. \*The accounts laid before that annual general meeting \*were adopted/\*were not adopted by the meeting.(1)

---

\* Strike out if inapplicable

(1) If the accounts adopted were not the accounts sent out before the meeting, supply details. A copy of the Accounts for the last financial year must be attached unless exempt.

---

**PARTICULARS OF INDEBTEDNESS**


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9. \* Particulars of the indebtedness of the company in respect of all charges required to be registered under the *Companies Act 1985* are as follows:

---

Registered number	Date of registration	Amount of the Indebtedness
-------------------	----------------------	-------------------------------

---

Total \$.....

---

\* Particulars of charges not required to be registered under the *Companies Act 1985* are as follows:

Total \$.....

Total amount of indebtedness \$.....

---

\* Strike out if inapplicable

---

## SUMMARY OF SHARE CAPITAL

	..... shares of \$	each
10. Nominal share capital		
\$	divided into(1)	..... shares of \$ each
		.....
Total number of shares taken up(1)		.....
Number of shares issued subject to payment wholly in cash		.....
Number of shares issued as fully paid up otherwise than in cash		.....
Number of shares issued as partly paid up to the extent of ..... per share otherwise than in cash		.....
(2 )Number of shares (if any) of each class issued at discount		.....
Total amount of discount on the issue of shares that has not been written off at the date of this return.		\$.....
(3) There has been called up on each of	shares	\$.....
(3) There has been called up on each of	shares	\$.....
(3) There has been called up on each of	shares	\$.....
(4) Total amount of calls received including payments on application and allotment		\$.....
Total amount (if any) agreed to be considered as paid on ..... shares that have been issued as fully paid up otherwise than in cash		\$.....
Total amount (if any) agreed to be considered as paid on ..... shares that have been issued as partly paid up to the extent of ..... per share otherwise than in cash		\$.....
Total amount of calls unpaid		\$.....
Total amount of the sums (if any) paid by way of commission in respect of any shares or debentures since the date of the last return		\$.....

Total amount of the sums (if any) allowed by way of discount in respect of any debentures since the date of the last return \$.....

Total number of shares forfeited .....

Total amount paid (if any) on shares forfeited \$.....

### LIST OF MEMBERS

11. Persons holding shares in the company and the number of the shares held by them respectively are as follows:

Full names and addresses	(1)(2)Number of shares held by existing members
Total	

### LIST OF DIRECTORS, ETC

12. Particulars of the directors(1), principal executive officer, secretaries and auditors of the company are as follows:

The present Christian or given name or names and surnames	Any former Christian or given name or surnames	Usual Address(3)(4)	Other business occupations and in the case of directors, particulars of other director-ships(6)
Directors(2)			
Principal Executive Officer(2)(if any)			
Secretaries(2)			
Auditors for current financial year(5)			

### 13. DECLARATION AS TO INFORMATION

I certify that the information contained in this Annual Return is true to the best of my knowledge and belief.

Dated this                      day of                                      20

.....  
Signature of \*Director/\*Secretary/\*Principal Executive Officer

Name of Signatory in block letters: .....

\*Strike out if inapplicable

**CERTIFICATES**

**14. A. CERTIFICATE TO BE GIVEN BY ALL COMPANIES**

\*I/\*We certify —

- (a) that the provisions of the law relating to unclaimed moneys have been complied with;
- (b) having made an inspection of the share register, that transfers \*have/\*have not been registered since the date of \*the last annual return(1)/\*the incorporation of the company;
- (2)(c) that the company has not, since the date of \*the last annual return(1)/\*the incorporation of the company, issued any invitation to the public to subscribe for any shares in or debentures of the company or to deposit moneys for fixed periods or payable at call;
- (3)(d) that the excess of members of the company above 50 (counting joint holders of shares as one person) consists wholly of persons who are in the employment of the company or of its subsidiary or persons who, while previously in the employment of the company or of its subsidiary were and thereafter have continued to be members of the company;
- (4)(e) that to the best of our knowledge and belief the company was during the period to which the return relates —
  - (i) an unlimited exempt proprietary company; or
  - (ii) an exempt proprietary company that is not an unlimited company, as defined in section 6.

(5)(f) that at the annual general meeting held on ..... day of ..... 20... the company in pursuance of section 351 did not appoint an auditor.

Dated this                      day of                                      20

Signature of Director (6) .....

Name of Signatory in block letters: .....

Signature of Secretary (6) .....

Name of Signatory in block letters: .....

\* Strike out whichever is inapplicable

---

**15. B. STATEMENT TO BE GIVEN BY THE AUDITOR OF AN EXEMPT PROPRIETARY COMPANY**

For the purposes of subsection 329(1), I state in relation to ..... Limited that —

- (a) the company \*HAS/\*HAS NOT in my opinion kept proper accounting records and other books during the period covered by those accounts;
- (b) the accounts \*HAVE/\*HAVE NOT been audited;



- (c) my report \*WAS NOT MADE SUBJECT TO ANY QUALIFICATION/\*WAS MADE SUBJECT TO A QUALIFICATION AND PARTICULARS OF THAT QUALIFICATION ARE ANNEXED; and \*DID NOT MAKE ANY COMMENT UNDER SUBSECTION 357(4)
- (d) in my report \*MADE COMMENT(S) UNDER SUBSECTION 357(4) AND PARTICULARS OF THE COMMENT(S) ARE ANNEXED.

Signature of Auditor .....

Name of Signatory in block letters: .....

\* Strike out whichever is inapplicable.\_\_\_\_\_

**16. C. CERTIFICATE IN RESPECT OF A COMPANY, THE ACCOUNTS OR GROUP ACCOUNTS OF WHICH, BY REASON OF THE CIRCUMSTANCES REFERRED TO IN SUBSECTION 351(1) AND (2), ARE NOT AUDITED**

For the purposes of subsection 351(5) we certify, in relation to ..... Limited, in respect of the financial year to which the return relates, that —

- (a) the company \*HAS/\*HAS NOT kept such accounting records as correctly record and explain the transactions and financial position of the company;
- (b) the company \*HAS/\*HAS NOT kept its accounting records in such a manner as would enable true and fair accounts of the company to be prepared from time to time;
- (c) the company \*HAS/\*HAS NOT kept its accounting records in such a manner as would enable the accounts of the company to be conveniently and properly audited in accordance with the *Companies Act 1985*; and
- (d) the accounts and group accounts (if any) \*HAVE/\*HAVE NOT been properly prepared by a competent person.

.....

.....

(1) Signatures

Name of Signatories in block letters .....

\* Strike out whichever is inapplicable

**17. D. CERTIFICATE FOR INCLUSION IN PUBLIC COMPANY'S ANNUAL RETURN THAT DOES NOT INCLUDE LIST OF MEMBERS**

For the purposes of subsection 330(1), I certify that —

- (a) the company has more than 500 members;
- (b) the company keep its principal share register at a place within Norfolk Island; and

- (c) the company provides reasonable accommodation and facilities for persons to inspect and take copies of its list of members and its particulars of shares transferred,

and that accordingly the company is of a kind to which that subsection applies.

Dated this                      day of    20

Signature of Secretary .....

Name of Signatory(ies) in block letters: .....

\* Strike out if inapplicable

#### INSTRUCTIONS FOR COMPLETING ANNUAL RETURN

1. State the full registered name of your company.
- 2.1. Where all members of an exempt proprietary company have signed a resolution which deals with all matters that are required to be dealt with at an Annual General Meeting, this item should be completed to show that the meeting was "Deemed to be Held". The date to be inserted is the date that the last member signed the resolution.  
  
If a meeting was held the words "Deemed to be Held" should be struck out.
- 2.2. If no Annual General meeting has been held, an Annual Return must still be lodged. The last day by which the Annual General Meeting should have been held, and the year to which the Annual Return relates must be shown.
- 2.3. To be completed only if an extension of time to hold the meeting has been granted by the Registrar. The date that the extension has been granted to must be shown.
3. Insert the date of the previous annual general meeting. Do not complete this section if this Annual Return is the first Return lodged by your company.
4. Insert the address of the registered office of the company. If the address was changed recently, please advise the Registrar by supplying the details on a Companies Form, "Notice in Relation to Registered Office", and a Companies Form "Consent to Specifications of Address" (if applicable).
5. To be completed if the register of members is kept at a place other than the registered office.
6. Insert the Business Name/s registered under the *Business Names Act 1976* under which the company carries on business in Norfolk Island.
7. Insert a short description of the principal nature of business carried on by your company. This information is required for statistical purposes and may be used to determine if a new application for the registration of a name could possibly be confused with your name.

#### 8. THE ACCOUNTS OF THE COMPANY FOR ITS LAST FINANCIAL YEAR

- (1) If the accounts adopted were not the accounts sent out before the meeting, supply details.

#### DIRECTION

Except in the case of

- (a) a company that, during the whole of the financial year, or each financial year, to which the return relates was an exempt proprietary company and an unlimited company; or
- (b) a company that, during the whole of the financial year, or each financial year, to which the return relates, was an exempt proprietary company, being a company of which the accounts and group accounts (if any) for that financial year or each of those financial years were audited in accordance with section 351,

a copy, certified by a director or secretary or the principal executive officer of the company to be a true copy, of all accounts and group accounts (if any) required to be laid before the company at the annual

general meeting, together with a copy of every document required by section 345 to be laid before the annual general meeting, must be annexed to the return.

9. **PARTICULARS OF INDEBTEDNESS**

In relation to charges not registered with the Registrar, insert relevant details to identify the charge, e.g. if a Real Property Mortgage, show Dealing or Registration Number.

10. **SUMMARY OF SHARE CAPITAL**

- (1) Where there are shares of different kinds or amounts (e.g. Preference and Ordinary, or \$20 and \$10) state the numbers and nominal values separately.
- (2) If the shares are of different kinds, state them separately.
- (3) Where various amounts have been called or there are shares of different kinds, state them separately.
- (4) Include what has been received on forfeited as well as on existing shares.

11. **LIST OF MEMBERS**

- (1) The aggregate number of shares held, and not the distinctive numbers, must be stated.
  - (2) Where the shares are of different classes, the number of each class held must be shown separately. Where any shares have been converted into stock, particulars of the amount of stock must be shown.
1. If the names in this list are not arranged in alphabetical order, an index sufficient to enable the name of any person in the list to be readily found must be annexed to this list.
  2. In the case of a no liability company or a company exempted under the provisions of section 330, this list is not required to be supplied.

12. **LIST OF DIRECTORS, ETC**

- (1) "Director" includes any person occupying or acting in the position of director by whatever name called and any person in accordance with whose directions or instructions the directors of a company are accustomed to act.
- (2) Where a director is also the principal executive officer or a secretary, particulars are to be entered under each of the relevant headings "Directors", "Principal executive officer" and "Secretaries".
- (3) Insert in the case of an individual his usual residential address, or, in the case of a corporate director, the corporate name and the address of the registered office or principal office.
- (4) In the case of auditors the address given must be the principal place where the auditor practises as an auditor. See paragraph 48(1)(c).
- (5) Strike out if the company, in pursuance of section 351, did not appoint an auditor.
- (6) Insert particulars of directorships held by the director in other corporations that under the law in Norfolk Island are public companies or subsidiaries of public companies but not particulars of directorships held by the director in a corporation that is deemed to be related to the company.

Where a person is a director in one or more subsidiaries of the same holding company, it is sufficient to disclose that the person is the holder of one or more directorships in that group of companies and the group may be described by the name of the holding company with the addition of the word, "Group".

If no other directorships, state accordingly.

14. A. **CERTIFICATE TO BE GIVEN BY ALL COMPANIES**

- (1) In the case of the first annual return of a proprietary company strike out the words "last annual return" and substitute the words, "incorporation of the company".

- (2) Strike out except in the case of a proprietary company.
- (3) Strike out except in the case of a proprietary company whose members exceed 50.
- (4) Strike out except in the case of an exempt proprietary company.
- (5) Strike out this paragraph if inapplicable. This paragraph is applicable only to an exempt proprietary company all the members of which have agreed not more than one month before the annual general meeting not to appoint an auditor.
- (6) A certificate signed by the same person in the capacity of both director and secretary will not be accepted. See subsection 296(7).

**DIRECTION**

A certificate in this form is to be given by a director or secretary of every company and, in the case of an exempt proprietary company, by both a director and a secretary.

15. B. **STATEMENT TO BE GIVEN BY THE AUDITOR OF AN  
EXEMPT PROPRIETARY COMPANY**

1. Where the auditor is a firm, the statement shall be signed, in accordance with subsection 348(10) in the firm name and in his own name by a member of the firm who is a registered company auditor.

16. C.

**CERTIFICATE IN RESPECT OF A COMPANY, THE ACCOUNTS OR GROUP ACCOUNTS  
OF WHICH, BY REASON OF THE CIRCUMSTANCES REFERRED TO IN SUBSECTIONS  
351(1) AND (2) ARE NOT AUDITED**

- (1) To be signed by two directors.

**DIRECTIONS**

1. If any of the paragraphs (a) to (d) are answered in the negative, full particulars must be annexed.

Norfolk Island  
Companies Form 10

Subsections 514(4) and (6)

**RETURN BY LIQUIDATOR RELATING TO FINAL MEETING**

---

Registration No. ....-.....

.....Limited

I, ..... of .....,  
the liquidator of the company, give notice that

\*a general meeting of the company.

\*a meeting of the company and the creditors of the company,

summoned for the ..... day of ..... 20..., for the  
purpose of laying before the meeting an account (a copy of which is annexed to  
this return) showing how the winding up has been conducted and how the  
property of the company has been disposed of and giving any explanation of the  
account,

\*was duly held on that date.

\*was not attended by the necessary quorum.

Dated this ..... day of ..... 20...

Signature of Liquidator .....

\* Strike out whichever is inapplicable

---

**Norfolk Island  
Companies Form 11**

*Section 524*

**NOTICE OF APPOINTMENT AND OF ADDRESS OF  
OFFICE OF LIQUIDATOR (WINDING UP BY THE COURT)**

---

Registration No. ....-.....

..... Limited

I, ..... of .....

give notice that

(a) the Supreme Court of ..... made an order on the  
..... day of ..... 20..., appointing me as  
\*liquidator/\*provisional liquidator of the company; and

(b) the address of my office is .....  
..... Postcode .....

Dated this ..... day of ..... 20..

Signature of Liquidator .....

\* Strike out whichever is inapplicable

**TIME FOR LODGEMENT**

This notice must be lodged within 14 days after the appointment of a provisional liquidator.

---

Norfolk Island  
Companies Form 12

Section 524

**NOTICE OF APPOINTMENT AND OF ADDRESS OF OFFICE OF LIQUIDATOR  
(MEMBERS' VOLUNTARY WINDING UP)**

---

Registration No. ....-.....

..... Limited

I, ..... of  
..... give notice that

(a) I was appointed liquidator of the company

\* by an ordinary resolution of the company passed on the  
..... day of ....., 20....

\* by an order of the Supreme Court of ..... made on  
the..... day of ....., 20....

(b) the address of my office is .....  
..... Postcode .....

Dated this ..... day of ..... 20..

Signature of Liquidator .....

\* Strike out whichever is inapplicable

**TIME FOR LODGEMENT**

This notice must be lodged within 14 days after the appointment of the liquidator.

Norfolk Island  
Companies Form 13

Section 524

**NOTICE OF APPOINTMENT AND OF ADDRESS OF OFFICE OF LIQUIDATOR  
(CREDITORS' VOLUNTARY WINDING UP)**

---

Registration No. ....-.....

..... Limited

I, ..... of  
..... give notice that —

(a) I was appointed liquidator of the company -

\* by resolution of the company passed on the ..... day of  
..... 20..., and of the creditors of the  
company passed on the ..... day of  
....., 20...;

\* by a resolution of the creditors of the company passed on the  
..... day of ..... 20...;

\* by a resolution of the company passed on the ..... day of  
..... 20...;

\* by an order of the Supreme Court of ..... made on the  
..... day of ..... 20...; and

(b) the address of my office is .....  
..... Postcode .....

Dated this ..... day of ..... 20...

Signature of Liquidator .....

\* Strike out whichever is inapplicable

**TIME FOR LODGEMENT**

This notice must be lodged within 14 days after the appointment of the liquidator.



**Norfolk Island  
Companies Form 14**

*Section 592(12)*

**ANNUAL RETURN OF FOREIGN COMPANY**

Registration No. ....-.....

Annual return of ..... Limited, a foreign company, made up to the ..... day of ..... 20..., being the date of the annual general meeting in 20...

1. The address of the registered office in ..... is .....
2. The address of the registered office (or if there is no registered office the principal place of business) in the place of incorporation or origin is .....
3. The amount of the authorised share capital of the company is .....
4. The amount of paid up capital of the company is .....
5. Particulars of the directors of the company are as follows:

The present Christian or given names and surname

Usual residential address

6. The name of the agent in Norfolk Island is .....

7. The residential address of the agent in Norfolk Island is .....

I certify that the company is, by virtue of the provisions of subsection 592(11), exempt from the provisions of subsection 592(1) requiring the company to lodge each calendar year copies of its balance-sheet, profit and loss account and other required documents made up to the end of its last financial year.

Dated this ..... day of ..... 20...

(1) Signature of \*Director/\*Secretary/\*Principal Executive Officer/\*of/\*Agent

Name of Signatory in block letters

\* Strike out whichever is inapplicable

(1) This certificate is to be signed by a director or secretary or the principal executive officer. Where the agent is a company, the form must be signed by a director or secretary or the principal executive of that company.

**TIME FOR LODGEMENT**

This return must be lodged within one month after the date of the annual general meeting.

---

**NORFOLK ISLAND  
COMPANIES ACT 1985**

Subsection 122A (1)

**Form 48**

**APPLICATION FOR CERTIFICATE AUTHORISING A COMPANY TO  
APPLY FOR REGISTRATION UNDER THE CORPORATIONS LAW**

I, .....being a  
director/secretary\* of ..... Limited

hereby apply for a certificate authorising the company to apply for registration under  
the Corporations Law of ..... (insert name of State or  
Territory).

.....  
Director/Secretary

Dated this ..... day of ..... 20

**Instructions**

This form must be accompanied by —

- a declaration signed by the directors of the company, or if the company has more than two directors, the majority of directors, to the effect that they have made an inquiry into the affairs of the company and that at a meeting of directors have formed an opinion that the company will be able to pay its debts as they fall due.
- A report in the prescribed form as to the affairs of the company, made up to the latest practicable date before making the application, showing the assets and liabilities of the company.
- A copy of the Special Resolution passed by the company approving the application for a certificate.
- Evidence that the company has given to its creditors notice of intention to apply for such a certificate.



NORFOLK ISLAND  
COMPANIES ACT 1985

Subsection 122A (3)

Form 48B

**CERTIFICATE AUTHORISING A COMPANY TO APPLY FOR  
REGISTRATION UNDER THE CORPORATIONS LAW**

Registered Number: .... / ....

*This is to certify that:*

*(insert name of Company )*

which was on the        day of        20    incorporated under the *Companies Act 1985* as a public/proprietary (delete as applicable) company has on the ..... day of ..... 20 applied for authorisation to apply for registration under the Corporations Law of *(insert an Australian State or the Australian Capital Territory)*

*Authorisation*

I, ....., Registrar of Companies hereby authorise, under subsection 122A(3) of the *Companies Act 1985*, the above company to apply for registration under the Corporations Law subject to the conditions set out below\*.

.....

**Registrar of Companies**

Dated this ..... day of ..... 20

---

\*Conditions

---

Form 48C

NORFOLK ISLAND

COMPANIES ACT 1985

CONSENT TO ISSUING A CERTIFICATE AUTHORISING THE TRANSFER OF INCORPORATION

paragraph 122A(3)(e)

I,..... being the Minister with responsibility for Companies hereby consent to the issuing of a "Certificate Authorising a Company to Apply for Registration Under the Corporations Law" of ..... (insert State or Territory) in relation to an application made by the following company.

NAME OF COMPANY

•

DATE OF APPLICATION

•

DATE APPLICATION RECEIVED

•

.....

Minister for .....

(insert date)



## SCHEDULE 3

*Regulation 14*

## PRESCRIBED AMOUNTS

Column 1	Column 2	Column 3
Item No.	Provision of Act	Amount

**Inspection of registers****Fee units**

1. For the purposes of —
- (a) subsection 185(4)
  - (b) paragraph 216(4)(b);
  - (c) subsection 264(3);
  - (d) subsection 291(7);
  - (e) subsection 298(6);
  - (f) subsection 321(2); or
  - (g) subsection 325(10)
- for each inspection..... 0.5

**Supply of copy of memorandum and of articles**

2. For the purposes of subsection 110(1)..... 1

**Supply of copies other than under subsection 110(1)**

3. For the purposes of —
- (a) subsection 185(5);
  - (b) subsection 216(8);
  - (c) subsection 264(4);
  - (d) subsection 291(8);
  - (e) subsection 298(7);
  - (f) subsection 316(2);
  - (g) subsection 319(3);
  - (h) subsection 321(3); or
  - (i) subsection 325(11),

for each page, or part of a page, not exceeding foolscap folio  
size, of the copy supplied ..... .05  
or, at the option of the supplier, for  
each 100 words or part..... .05

**Replacement of lost or destroyed certificate**

- 4. For the purposes of subsection 244(1)..... 1



**SCHEDULE 4***Regulation 37***PROSPECTUS****PART 1****Matters to be stated**

1. The number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders of those shares in the property and profits of the corporation.
2. The number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors.
3. The names, descriptions, and addresses of all the directors or proposed directors.
4. The time of the opening of the subscription lists.
5. The amount payable on application for and allotment of each share or, where such amount may vary during the currency of the offer, the basis of calculation of the amount so payable, and, in the case of a second or subsequent offer of shares, the number, description and amount offered for subscription on each previous allotment made within the 2 preceding years, the number actually allotted, and the amount, if any, paid on the shares so allotted.
6. The number, description, and amount of any shares in or debentures of the corporation which any person has, or is entitled to be given, an option to subscribe for, together with the following particulars of the option —
  - (a) the period during which it is exercisable;
  - (b) the price to be paid for shares or debentures subscribed for under it;
  - (c) the consideration, if any, given or to be given for it or for the right to it;
  - (d) the names and addresses of the persons to whom it or the right to it was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures.
7. The number and amount of shares and debentures which within the 2 preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued.
8. (1) With respect to any property to which this clause applies —
  - (a) the names and addresses of the vendors;
  - (b) the amount payable in cash, shares, or debentures to the vendor and, where there is more than one separate vendor, or the corporation is a sub-purchaser, the amount so payable to each vendor;
  - (c) short particulars of any transaction relating to the property completed within the 2 preceding years in which any vendor of the property to the corporation or any person who is, or was at the time



of the transaction, a promoter or a director or proposed director of the corporation had any interest direct or indirect.

- (2) The property to which this clause applies is property purchased or acquired by the corporation or by a subsidiary of the corporation or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the date of the issue of the prospectus, other than property the contract for the purchase or acquisition whereof was entered into in the ordinary course of the corporation's or the subsidiary's business, the contract not being made in contemplation of the issue nor the issue in consequence of the contract.
9. The amount, if any, paid or payable as purchase money in cash, shares or debentures for any property to which clause 8 applies, specifying the amount, if any, payable for goodwill.
10. In relation to any payment within the 2 preceding years or any proposed payment, by way of brokerage or commission (but not including commission to sub-underwriters), in consideration of a person or persons —
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in or debentures of the corporation; or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional, for shares in or debentures of the corporation,the amount or rate of that payment, together with the names of any directors, promoters, experts or proposed directors who are entitled to receive any such payment and the amount or rate of the payment that they are entitled to receive.
11. The number of shares for which persons have agreed, for payments by way of brokerage or commission, to subscribe absolutely.
12. The amount or estimated amount of preliminary expenses and the persons by whom any of those expenses have been paid or are payable, and the amount or estimated amount of the expenses of the issue and the persons by whom any of those expenses have been paid or are payable.
13. Any amount or benefit paid or given within the 2 preceding years or intended to be paid or given to any promoter, and the consideration for the payment or the giving of the benefit.
14. The names and addresses of the auditors of the corporation.
15. Where the prospectus relates to shares, if the share capital of the corporation is divided into different classes of shares, the right of voting at meetings of the corporation conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.
16. In the case of a corporation which has been carrying on business, or of a business which has been carried on, for less than 3 years, the

length of time during which the business of the corporation or the business to be acquired, as the case may be, has been carried on.

**PART 2**

**Reports to be contained in prospectus**

17. If the proceeds, or any part of the proceeds, of the issue of the shares or debentures are to be applied directly or indirectly in the purchase of any business, an investigating accountant's report which must not be made more than 28 days before the issue of the prospectus and deals with —
  - (a) the profit or loss of the business, in respect of each of the 5 financial years immediately preceding the issue of the prospectus and, where accounts have been made up for a part of the financial year in which the prospectus is issued, in respect of that part; and
  - (b) the assets and liabilities of the business, as at the end of the last financial year or part of the financial year referred to in paragraph (a), whichever is the later.
18. If —
  - (a) the proceeds, or any part of the proceeds, of the issue of the shares or debentures are to be applied directly or indirectly in any manner resulting in the acquisition by the corporation of shares in any other corporation; and
  - (b) by reason of that acquisition, or anything to be done in consequence or in connection with it, that corporation will become a subsidiary of the first-mentioned corporation in paragraph (a) —  
an investigating accountant's report with respect to —
  - (c) where the other corporation has no subsidiaries —
    - (i) the profit or loss of the other corporation, in respect of each of the 5 financial years immediately preceding the issue of the prospectus and, where accounts have been made up for a part of the financial year in which the prospectus is issued, in respect of that part; and
    - (ii) the assets and liabilities of the other corporation, as at the end of the last financial year or part of the financial year referred to in subparagraph (i), whichever is the later; or
  - (d) where the other corporation has subsidiaries —
    - (i) the profit or loss of the other corporation and the combined profits and losses of the other corporation and its subsidiaries, in respect of each of the 5 financial years immediately preceding the issue of the prospectus and, where accounts have been made up for a part of the financial year in which the prospectus is issued, in respect of that part; and
    - (ii) the assets and liabilities of the other corporation and the combined assets and combined liabilities of the other corporation and its subsidiaries, as at the end of the last financial year or part of the financial year referred to in

subparagraph (i), whichever is the later in respect of the other corporation and each subsidiary.

19. For the purposes of clauses 17 and 18, the last financial year, or part of a financial year, in respect of which the investigating accountant's report deals with the matters referred to in those clauses shall be a financial year, or a part of a financial year, that ended not more than 6 months, or, with the consent of the Registrar, not more than 12 months, before the date of the prospectus.
20. (1) For the purposes of paragraph 18(d), the investigating accountant's report shall deal with the combined profits and losses, and combined assets and combined liabilities, of a corporation and its subsidiaries, in —
  - (a) a statement of consolidated profit and loss and consolidated assets and consolidated liabilities for the corporation and the subsidiaries;
  - (b) 2 or more statements of consolidated profit and loss and consolidated assets and consolidated liabilities together covering the corporation and the subsidiaries;
  - (c) a combination of one or more statements of consolidated profit and loss and consolidated assets and consolidated liabilities and one or more separate statements of profit or loss and assets and liabilities, together covering the corporation and the subsidiaries; or
  - (d) separate statements of profit or loss and assets and liabilities for the corporation and each of the subsidiaries.(2) The statements prepared pursuant to paragraph (1)(a), (b), (c) or (d) shall make allowance in relation to the profits or losses, and assets and liabilities, of the subsidiaries for the interests of members of the subsidiaries other than the corporation.
- (3) Where a statement of consolidated profit and loss and consolidated assets and consolidated liabilities is prepared, transactions and balances between the corporations covered by that statement shall be eliminated in determining any amounts to be included in that statement.
- (4) Where the combined profits and losses and combined assets and combined liabilities of a corporation and its subsidiaries are dealt with otherwise than in accordance with paragraph (1)(a), the investigating accountant shall certify in his report —
  - (a) that, for reasons set out in the certificate, it was impracticable to deal with them in accordance with paragraph (1)(a) or that it was preferable that they be dealt with in accordance with paragraph (1)(b), (c) or (d), as the case may be; and
  - (b) that they were not significantly affected by transactions and balances between the corporations to which they relate, except to the extent stated in the notes in the report.
21. For the purposes of clause 18, the investigating accountant's report shall indicate how the profit or loss of the other corporation and, where applicable, the combined profits and losses of the other

corporation and its subsidiaries dealt with by the report would, in respect of the shares to be acquired, have concerned members of the first-mentioned corporation in clause 18 and what allowance would have to be made, in relation to assets and liabilities and combined assets and combined liabilities so dealt with, for holders of other shares, if the first-mentioned corporation in clause 18 had at all material times held the shares to be acquired.

22. (1) A report by the directors as to whether after due inquiry by them in relation to the interval between the last date to which the accounts used in the preparation of the investigating accountant's report were made up and a date not earlier than 14 days before the issue of the prospectus, they have become aware —
- (a) of any circumstances which in their opinion materially have affected or will affect the trading or profitability of the corporation or of its subsidiaries or of the value of the assets of the corporation or of its subsidiaries, if any; and
  - (b) of any contingent liabilities of the corporation or of its subsidiaries, additional to those contingent liabilities appearing in the prospectus.
- (2) If the directors have become aware of any circumstance or contingent liability referred to in subclause (1), full details must be set out in the report.

### **PART 3**

#### **Directions applicable to Parts 1 and 2**

23. Clauses 2 and 12 (so far as they relate to preliminary expenses) shall not apply in the case of a prospectus issued more than 2 years after the date at which the corporation is entitled to commence business.
24. Every person shall for the purposes of this Schedule be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the corporation in any case where —
- (a) the purchase money is not fully paid at the date of the issue of the prospectus;
  - (b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or
  - (c) the contract depends for its validity or fulfilment on the result of that issue.
25. Where any property to be acquired by the corporation is to be taken on lease, this Schedule shall have effect as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.
26. References in clause 6 to an option to subscribe for shares or debentures shall include an option to acquire them from a person to whom they have been allotted or agreed to be allotted with a view

to his offering them for sale, but shall not include an option to subscribe for or acquire shares pursuant to a bona fide underwriting or sub-underwriting agreement.

27. For the purposes of clause 8 where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors.
28. If, in the case of a corporation that has been carrying on business, or of a business that has been carried on, for less than 5 financial years, its accounts have only been made up in respect of 4 financial years, 3 financial years, 2 financial years or one financial year, Part 2 shall have effect as if references to 4 financial years, 3 financial years, 2 financial years or one financial year, as the case may be, were substituted for references to 5 financial years.
29. The expression "financial year" in Part 2 means the year in respect of which the accounts of the corporation or of the business, as the case may be, are made up, and where by reason of any alteration of the date on which the financial year of the corporation or business terminates the accounts of the corporation or business have been made up for a period greater or less than a year, that greater or less period shall for the purposes of that Part of this Schedule be deemed to be a financial year.

#### **PART 4**

#### **Additional matters to be set out in a prospectus relating to an invitation to deposit money with or lend money to a corporation**

30. In every prospectus relating to an invitation to deposit money with or lend money to a corporation there shall be included -
    - (a) particulars of the limitations on the amount that the borrowing corporation may borrow;
    - (b) a statement as to the amount of subscriptions that are being sought;
    - (c) a statement as to whether or not the borrowing corporation reserves the right to accept or retain over-subscriptions and, if the borrowing corporation reserves such a right, the limit on the right so reserved expressed as a sum of money; and
    - (d) where applicable, a statement as to whether or not the borrowing corporation has any right to create additional charges over any of the assets charged to secure the repayment of the deposits or loans which will rank in priority to or *pari passu* with that charge and if there is such a right particulars of its nature and extent.
-

## SCHEDULE 5

## ACCOUNTS AND GROUP ACCOUNTS

*Regulation 47**Subsection 340(11)*

1. (1) In this Schedule —

“accounts” means profit and loss accounts and balance sheets and includes statements, reports and notes, other than auditors’ reports or directors’ reports, attached to or intended to be read with any of those profit and loss accounts or balance-sheets;

“current liability”, in relation to accounts or group accounts, means a liability that would in the ordinary course of events be payable within 12 months after the end of the financial year to which the accounts or group accounts relate;

“group accounts”, in relation to a holding company, means —

- (a) a set of consolidated accounts for the group of companies of that holding company;
- (b) 2 or more sets of consolidated accounts together covering that group;
- (c) separate accounts for each corporation in that group; or
- (d) a combination of one or more sets of consolidated accounts and one or more separate accounts together covering that group;

“group of companies”, in relation to a holding company, means the holding company and the corporations that are subsidiaries of the holding company;

“holding company” means a company that is the holding company of a corporation;

“non-current liability” means a liability that is not a current liability;

“reserve” does not include any amount written off or retained by way of providing for depreciation, renewal or diminution in value of assets or retained by way of providing for any known liability, or any amount set aside for the purpose of its being used to counter the effect of undue fluctuations in charges for taxation;

“the profit or loss” means —

- (a) in relation to a corporation that is not a holding company - the profit or loss resulting from operations of that corporation;
- (b) in relation to a corporation that is a holding company of a group of companies for which group accounts are required - the profit or loss resulting from operations of that corporation;
- (c) in relation to a corporation referred to in paragraph (b) and its subsidiaries - the profit or loss resulting from operations of the group of companies of which the corporation is the holding company; and

- (d) in relation to a corporation that is a holding company of a group of companies for which group accounts are not required - the profit or loss resulting from operations of that corporation.

(2) A reference to a financial year in relation to group accounts of a holding company is, where the financial year of any one or more of the companies in the group of companies does not end on the date on which the financial year of the holding company ends, a reference to the financial year of the holding company and the financial year of each other company in the group of companies that does not end on that date.

(3) The term “reserve” shall not be included in any accounts or group accounts to describe any amount that is excluded by the provisions of subclause (1) from the meaning of that term for the purposes of this Schedule.

2. (1) There shall be shown separately in the accounts or group accounts (whether by way of note or otherwise) in addition to any other matters necessary to present a true and fair view of the profit or loss of the company or of the company and its subsidiaries -

- (a) the amounts of income received, or due and receivable, as dividends declared on shares in -
- (i) related corporations; and
  - (ii) other corporations,
- separate amounts being shown in respect of each related corporation;
- (b) the amounts of income received, or due and receivable, as interest on debentures, deposits, loans or advances from —
- (i) the holding company;
  - (ii) subsidiaries;
  - (iii) other related corporations; and
  - (iv) other persons;
- (c) the following —
- (i) the amount of any profit arising from the sale of assets (other than current assets); and
  - (ii) the amount of any profit arising from the re-valuation of assets (other than current assets),
- and, in respect of that profit (if any), a statement whether it has been brought into account, in determining the net amount of the profit or loss of the company or of the company and its subsidiaries;
- (d) the amount of any other profit arising otherwise than in the ordinary course of business;
- (e) the amounts of interest paid, or due and payable, on debentures, deposits, loans or advances, or otherwise, to —
- (i) the holding company;
  - (ii) subsidiaries;

- (iii) other related corporations; and
- (iv) other persons;
- (f) the following —
  - (i) the amount of any loss arising from the sale of assets (other than current assets); and
  - (ii) the amount of any loss arising from the re-valuation of assets (other than current assets),  
and, in respect of that loss (if any), a statement whether it has been brought into account in determining the net amount of the profit or loss of the company or of the company and its subsidiaries;
- (g) the amount of any other loss arising otherwise than in the ordinary course of business;
- (h) the amount charged for, or set aside to a provision for depreciation, diminution in value or amortization of —
  - (i) fixed assets;
  - (ii) investments; and
  - (iii) intangible assets;
- (j) the amount charged for, or set aside for, the renewal or replacement of fixed assets;
- (k) in respect of each class of debts shown separately in the accounts or group accounts —
  - (i) the amount of bad debts written off in the profit and loss account;
  - (ii) the amount of bad debts written off against any provision, reserve or other account, stating the name of the provision, reserve or account and the amount written off against it; and
  - (iii) the amount of debts on which interest or credit charges that is or are due has or have not been brought fully to account in the profit and loss account, whether or not a provision for doubtful debts has been made in respect of those debts;
- (l) in respect of each class of debts shown separately in the accounts or group accounts, the amount set aside to any provision for doubtful debts;
- (m) separately, the total of the emoluments received, or due and receivable (whether from the company or from a related corporation), by —
  - (i) directors of the company engaged in the full-time employment of the company and its related corporations (including all bonuses and commissions received or receivable by them as employees but not including the amount received or receivable by them by way of fixed salary as employees); and
  - (ii) other directors of the company,



including in each case payments by way of brokerage or commission in consideration of —

(iii) subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in or debentures of the company or any related corporation; or

(iv) procuring, or agreeing to procure subscriptions, whether absolute or conditional, for shares in or debentures of the company or any related corporation,

and the portion (if any) of the total amount contributed or to be contributed otherwise than by the company but not including, in either case, emoluments received, or due and receivable, by a director of the company who is not resident in Norfolk Island from a holding company of which he is a director or employee and which is a corporation formed outside Norfolk Island, being emoluments received, or due and receivable, by him as such a director or employee; and

(n) the amounts (including benefits in kind) received, or due and receivable, by the auditors for their services to the company, separate amounts being shown in respect of —

(i) the auditing of the accounts or group accounts; and

(ii) other services,

and the portion of each such amount contributed or to be contributed otherwise than by the company, with a statement whether the auditors receive any other benefits, and, if so, the general nature of those benefits.

(2) There shall also be shown in the accounts or group accounts in respect of the financial year (whether by way of note or otherwise) the amount set aside for the payment of income tax attributable to the financial year.

3. There shall be shown in the accounts or group accounts in respect of the financial year (whether by way of note or otherwise), separately —

(a) the amount of unappropriated profits or accumulated losses (however described) at the beginning of the financial year;

(b) the net amount of profit or loss after providing for payment of income tax attributable to the financial year;

(c) any amount set aside to any provision for the payment of income tax attributable to a period other than the financial year;

(d) any amount set aside or proposed to be set aside to any reserve, stating the origin of that amount;

(e) any amount withdrawn, or proposed to be withdrawn, from any reserve;

(f) any amount set aside to a provision (other than a provision specifically provided for in this Schedule);

(g) any amount withdrawn from any provision where the amount withdrawn was not applied for the purposes of the provisions;

(h) any amount set aside for redemption of share capital or of loans;

- (j) the amount of dividends paid during the financial year and the amount of dividends proposed to be paid, excluding any amount shown in a profit and loss account or balance-sheet relating to a previous financial year as an amount proposed to be paid by way of dividends;
- (k) the amount of any appropriation or adjustment that affects the amount of unappropriated profits or accumulated losses at the end of the financial year; and
- (l) the amount of unappropriated profits or accumulated losses (however described) at the end of the financial year.

4. Where in accounts of a company or in group accounts the amount set aside for the payment of income tax attributable to the financial year differs, or but for compensatory items would differ, by more than 15% from the amount of income tax that would be payable by the company or by the company and its subsidiaries if its taxable income for that year were equal to the amount shown in or ascertainable from the accounts or group accounts as being the amount of the net profit or loss before provision is made for the payment of income tax attributable to that year, there shall be set out an explanation of the difference, including a statement of the major items responsible for the difference and the amount, or estimated amount, of those items.

5. (1) There shall be shown separately in the accounts or group accounts as at the end of the financial year (whether by way of note or otherwise) —

- (a) the amount and particulars of authorised capital, calls in arrear and paid-up capital, a distinction being drawn in those amounts and particulars between any different classes of shares;
- (b) the nominal value of shares in the capital of the company in respect of which options are outstanding, the amount of premium (if any) payable in respect of those shares and particulars of the options;
- (c) where any part of the capital consists of preference shares —
  - (i) the rate of dividend on each class of preference shares;
  - (ii) the amount of arrears of dividend on each class of preference shares;
  - (iii) whether the preference shares are cumulative, non-cumulative, participating or non-participating;
  - (iv) whether the preference shares are to be redeemed or at the option of the company are liable to be redeemed; and
  - (v) if the preference shares are to be redeemed or at the option of the company are liable to be redeemed - the date on or before which they are to be redeemed, or are liable to be redeemed, the earliest date on which the company has power to redeem them, and —
- (A) if the preference shares are to be redeemed, or are liable to be redeemed, at a premium - the amount of the premium; or
- (B) if the preference shares are to be redeemed, or are liable to be redeemed, at a discount - the amount of the discount;

- (d) the amount of capital that is not capable of being called up except in the event of, and for the purposes of, the winding up of the company;
- (e) the amount of capital upon which interest has been paid out of capital during the financial year (and the rate of interest so paid);
- (f) the amount of reserve of all descriptions, a separate amount being shown for each class;
- (g) the amount of the share premium account;
- (h) the amount of unappropriated profits or accumulated losses (if any) as shown under paragraph 3(1), any accumulated losses (in so far as they have not been written off) being shown as a deduction from the amount of paid-up capital and reserves; and
- (i) the amount and particulars of provisions there being shown separately —
  - (i) the amounts of any provisions for depreciation, diminution in value or amortization of assets shown as deductions from the amounts of the respective assets;
  - (ii) the amount of any provisions for doubtful debts shown as deductions from the amounts of the respective debts to which the provisions relate;
  - (iii) the amount of provision for income tax, a distinction being drawn between the amount provided for current liability and that provided for future liability, and any amount provided for the purposes of its being used to counter the effect of undue fluctuations in liability for income tax being shown separately; and
  - (iv) the amount and purpose of any other provision shown, if appropriate, as a deduction from the amount of the asset to which the provision relates.

(2) There shall be shown in the accounts or group accounts at the end of the financial year (whether by way of note or otherwise) the amounts and descriptions of all current liabilities and non-current liabilities, under headings appropriate to the business of the company or of the company and its subsidiaries, and arranged in classes under those headings according to their nature or function in the business, each of the following being shown separately:

- (a) bank loans;
- (b) bank overdrafts;
- (c) debentures held by —
  - (i) subsidiaries;
  - (ii) the holding company;
  - (iii) other related corporations; and
  - (iv) other persons;
- (d) the amount due to trade creditors and on bills payable;
- (e) other amounts payable to —

- (i) subsidiaries;
  - (ii) the holding company; and
  - (iii) other related corporations;
- (f) the aggregate amount, or estimated aggregate amount, and particulars of capital expenditure contracted for, so far as the amount has not been provided for;
- (g) the aggregate amount, or estimated aggregate amount, and particulars of lease and hire expenditure contracted for so far as the amount has not been provided for, and the amount of that expenditure which is payable within 12 months after the end of the financial year; and
- (h) the amounts and descriptions of other liabilities and particulars of their nature.

**(3)** There shall be shown in the accounts or group accounts, if not otherwise shown, as at the end of the financial year (whether by way of note or otherwise), contingent liabilities with a statement as to the general nature of those liabilities and so far as practicable, the maximum amount, or an estimate of the maximum amount, for which the company or the company and its subsidiaries could become liable in respect of those liabilities.

**(4)** There shall be shown separately in the accounts or group accounts as at the end of the financial year (whether by way of note or otherwise) the amounts and descriptions of all fixed assets, intangible assets, current assets, investments and assets of any other kind, under the headings appropriate to the business of the company or of the company and its subsidiaries, and arranged in classes under those headings according to their nature or function in the business, the following being shown separately:

- (a) cash at bank and in hand;
- (b) stock on hand, divided, where appropriate, into raw materials, finished goods, work in progress and other stock;
- (c) government, municipal and other public debentures, stock and bonds;
- (d) shares in -
  - (i) the holding company;
  - (ii) subsidiaries;
  - (iii) other related corporations; and
  - (iv) other corporations;
- (e) options in respect of shares in —
  - (i) the holding company;
  - (ii) subsidiaries;
  - (iii) other related corporations; and
  - (iv) other corporations;
- (f) debentures of each of the following —
  - (i) the holding company;

- (ii) subsidiaries;
- (iii) other related corporations; and
- (iv) other corporations;
- (g) the amount due from trade debtors and on-bills receivable;
- (h) amounts of interest due from each of the following:
  - (i) the holding company;
  - (ii) subsidiaries;
  - (iii) other related corporations; and
  - (iv) other persons,

that are not brought to account in the profit and loss account;

- (i) other amounts receivable from —
  - (i) the holding company;
  - (ii) subsidiaries;
  - (iii) other related corporations; and
  - (iv) other persons;
- (j) subject to subclause (6), the total amount outstanding of any loans made, guaranteed or secured by the company, or by the company and its subsidiaries, being loans made to —
  - (i) a director of the company, a spouse of such a director, or a relative of such a director or spouse;
  - (ii) a director of a corporation that is related to the company, a spouse of such a director or a relative of such a director or spouse;
  - (iii) a trustee of a trust under which a person referred to in subparagraph (i) or (ii) has a beneficial interest; or
  - (iv) a corporation, where a person referred to in subparagraph (i) or (ii) has, or 2 or more such persons together have, a direct or indirect beneficial interest in shares in the corporation the nominal value of which is not less than 10% of the nominal value of the issued share capital of the corporation;
- (k) the aggregate of the amounts of any items of goodwill and of any patents and trademarks, to the extent that they have not been written off;
- (l) the amounts of each of the following, to the extent that they have not been written off —
  - (i) preliminary expenses;
  - (ii) expenses incurred in connection with any issue of shares or debentures;
  - (iii) sums paid by way of brokerage or commission in respect of any shares or debentures;

- (iv) sums allowed by way of discount in respect of debentures; and
- (v) sums allowed by way of discount on any issue of shares; and
- (m) the amounts and descriptions of other assets, with particulars of their nature.

(5) There shall be shown in the group accounts the net amount of consolidated profit or loss of the group for the financial year after provision for income tax, showing separately the extent to which each corporation in the group contributed to that consolidated profit or loss, and after deducting from that consolidated profit or loss any amounts that should properly be attributed to any person other than a corporation in the group.

(6) Where a company makes a loan to a corporation, or gives a guarantee or provides security in connection with a loan made to a corporation, a person or persons shall not be taken for the purposes of paragraph (4)(j) to have a beneficial interest in shares in the corporation by reason only that the company has a relevant interest or relevant interests in shares in the corporation and the person or persons has or have a relevant interest or relevant interests in shares in the company.

6. (1) In respect of each liability or contingent liability shown in the accounts or group accounts, being a liability the payment of which is secured by a charge on assets of the company or of the company and its subsidiaries, whether registered or unregistered, there shall be shown a statement that it is so secured and the extent to which it is secured and each such liability or contingent liability shall be distinguished from any other liabilities or contingent liabilities the payment of which is not so secured.

(2) Current liabilities and current assets shall be clearly distinguished from other liabilities and assets.

(3) Where by reason of the manner in which the records of a company were kept before the date of commencement of the Act it is not possible to show separately the amounts of any classes of assets or liabilities required by this Schedule to be separately shown, there shall be shown the total amount of assets or liabilities of those classes acquired or incurred before that date, and the separate amounts of assets or liabilities of those classes acquired or incurred after that date.

7. (1) In respect of all fixed assets, investments, stock on hand and work in progress shown in the balance sheet there shall be stated the method of arriving at the respective amounts of the assets, investments, stock or work in progress, and when more than one method is used, a separate total shall be shown in respect of each of the methods used.

(2) There shall be shown in respect of each class of fixed assets or investments referred to in the accounts or group accounts —

- (a) the cost of the assets or investments of that class or (at the option of the directors) where they have been valued, the amount of the assets or investments of that class as so valued, and, where the valuation applies only to part of such a class, separate totals for such of the assets as have been valued and for the remainder of the assets of that class;
- (b) the aggregate amount written off in respect of each class or part of a class since the date of acquisition or valuation, as the case may be; and

- (c) the difference between the amounts shown under paragraph (a) and paragraph (b).

**(3)** For the purposes of subclause (2), the net amount at which any assets stood in the company's records at the date of commencement of the Act (after deduction of the amounts previously provided or written off for depreciation, diminution in value or amortization) shall, if the figures relating to the period before that date cannot be obtained without unreasonable expense or delay, be treated, until a valuation is made, as if it were the amount of a valuation of those assets made on that date, and, where any of those assets are sold, that net amount (less the net amount at which the assets sold stood in the records as at that date, or, if no separate amount is available, their estimated value as at that date) shall be treated as if it were the amount of a valuation of the remaining assets made on that date.

**(4)** Paragraphs (2)(b) and (c) do not apply to fixed assets the replacement of which is dealt with wholly or partly —

- (a) by making any provision for renewal or replacement and charging the cost of renewal or replacement against the provision; or
- (b) by charging the cost of renewal or replacement directly against revenue,

but in respect of those assets there shall be stated —

- (c) the method by which their renewal or replacement is dealt with; and
- (d) the aggregate amount of the provisions (if any) made for renewal or replacement and not used.

**(5)** If any investments of a class for which paragraph 5(4)(c), (d), (e) or (f) requires a separate amount to be shown are listed for quotation on the stock market of a stock exchange in Australia or elsewhere that is specified in regulation 16, a separate total shall be shown for the quoted investments of each class, and there shall also be shown the aggregate quoted market value, calculated on the official quotation of that stock market, of the quoted investments of each class.

**(6)** Where the amount of any fixed asset or investment (other than an investment the quoted market value of which has been included in an aggregate market value in accordance with subclause (5)) is shown at a valuation or at a valuation less amounts written off, there shall be shown (whether by way of note or otherwise) the date of the valuation, and whether the valuation was made by an officer of the company or of a related corporation or by a person not being such an officer.

**(7)** If the valuation referred to in subclause (6) was made on or after the date of commencement of the Act by a person not being such an officer, the name of the person who valued it and particulars of his qualifications shall be shown in the first accounts in which reference is made to the valuation.

**(8)** For the purposes of subclause (6), the expression "officer's valuation" may be used to indicate a valuation made by an officer of the company or of a related corporation and the expression "independent valuation" may be used to indicate a valuation made by a person not being such an officer.

**(9)** In addition to any other information required to be shown, there shall be shown separately (whether by way of note or otherwise), in respect of land or interests in land acquired or held for sale or resale, to the extent to which they have not been written off —

- (a) the total cost of acquisition (exclusive of any cost of surveys, roads and drainage and other development expenses);
- (b) the total of any development expenses capitalised; and

- (c) the total of any amounts of rates, taxes or interest and any other amounts capitalised.

**8.** There shall be shown (whether by way of note or otherwise) in the balance-sheet of every company that is a borrowing corporation or a guarantor corporation a schedule setting out, separately, estimates of the amounts payable by, and the debts payable to the company —

- (a) not later than one year;
- (b) later than one year but not later than 2 years;
- (c) later than 2 years but not later than 5 years; and
- (d) later than 5 years,

after the end of the financial year.

**9.** The accounts of a company that is a subsidiary of another corporation shall state (whether by way of note or otherwise) the name of the corporation that the company believes to be its ultimate holding company and, if known to the company, the country in which that ultimate holding company is incorporated.

**10. (1)** Group accounts of a holding company shall state (whether by way of note or otherwise) —

- (a) the name and place of incorporation of each subsidiary, and if any business of the subsidiary is carried on in a place other than Norfolk Island, the name of the place;
- (b) the amount of the holding company's investment in each class of the share capital of each subsidiary;
- (c) the percentage of each class of the shares in each subsidiary held by the holding company; and
- (d) where the financial year of a subsidiary does not coincide with the financial year of the holding company, the date on which the financial year of the subsidiary ends.

**(2)** Where any consolidated accounts are to be laid before a holding company at its annual general meeting, transactions and balances between the corporations covered by the consolidated accounts shall be eliminated in determining any amounts to be stated in the consolidated accounts.

**(3)** Subject to subclause (4), where separate accounts of a subsidiary are to be laid before the holding company at its annual general meeting as part of the group accounts, the accounts of the subsidiary shall as far as practicable be in the same form as the accounts of the holding company.

**(4)** In the case of a subsidiary incorporated outside Norfolk Island (whether or not it has established a place of business in Norfolk Island), it is sufficient compliance with the provisions of subclause (3) if the accounts of the subsidiary —

- (a) are in such form;
- (b) are reported on by an auditor in such manner;
- (c) contain such particulars; and
- (d) include or are accompanied by such documents (if any),



as is or are required by the law in force in its place of incorporation concerning accounts to be laid before the subsidiary in general meeting.

(5) Where group accounts are prepared otherwise than as one set of consolidated accounts covering the group, the directors of the holding company shall certify on, or in a certificate attached to, the accounts —

- (a) that the preparation of one such set of consolidated accounts is impracticable or that it is preferable, in the interest of the shareholders, that the accounts be prepared in the form in which they are prepared (as the case may be), for reasons to be stated in the certificate; and
- (b) that, in the opinion of the directors, the accounts so prepared are not significantly affected by transactions and balances between the corporations covered by the accounts, except to the extent stated in any notes forming part of the accounts.

(6) Where any accounts included in group accounts laid before a holding company at its annual general meeting are presented in a form or grouping different from that in which the immediately preceding group accounts (if any) were so laid, the directors shall certify on, or in a certificate attached to, the accounts the names of the corporations the accounts of which have been so presented and the reasons for presenting them in that form or grouping.

(7) A certificate under subclause (5) or (6) shall be signed by not less than 2 directors.

11. All amounts shown in the accounts or group accounts shall be expressed in Australian currency and, where any conversion has been made otherwise than on the basis of the rate of exchange current at the end of the financial year of the company or holding company, an explanation of the methods used in calculating the conversion shall be given.

12. (1) Except in the case of the first accounts after the incorporation of the company and in the case of the first group accounts after the company becomes a holding company, there shall be shown —

- (a) in every balance sheet and in all notes attached to that balance sheet the corresponding amounts as at the end of the immediately preceding financial year; and
- (b) in every profit and loss account and in all notes attached to that profit and loss account the corresponding amounts for the corresponding period of the immediately preceding financial year,

and, where the respective financial years are not equal in length, the periods covered shall be clearly indicated by way of note or otherwise.

(2) If —

- (a) the balance sheet or notes attached to that balance sheet do not include an item corresponding to an item in the balance sheet or notes attached to that balance sheet as at the end of the immediately preceding financial year; or
- (b) the profit and loss account or notes attached to that profit and loss account do not include an item corresponding to an item in the profit and loss account or notes attached to that profit and loss

account covering the corresponding period of the immediately preceding financial year,

that previous item and the amount of that previous item shall be shown.

**13. (1)** Where the accounts or group accounts could be misleading by reason of a failure to explain the method used in dealing with, or calculating the amount of, any item or information included in or excluded from the accounts or group accounts, there shall be stated (whether by way of note or otherwise) the method used to deal with, or calculate, the amount of the item or information.

**(2)** Any sums that consist of or are in the nature of interest, accommodation charges, service charges, maintenance charges or insurance premiums, being income that has not been earned at the end of the financial year, shall not be included in any estimate of the gross amount of any of the following classes of debts owed to the company or to the company and its subsidiaries:

- (a) debts payable not later than one year after the end of the financial year;
- (b) debts payable later than one year but not later than 2 years after the end of the financial year;
- (c) debts payable later than 2 years but not later than 5 years after the end of the financial year;
- (d) debts payable later than 5 years after the end of the financial year,

unless the amount of unearned income so included is shown as a deduction from the estimate of the gross amount of the class of debts concerned.

**(3)** A short statement of the method by which the amount of unearned income has been calculated shall be included in the accounts or group accounts (whether by way of note or otherwise).

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**SCHEDULE 6***Regulation 49**Section 366(10)***WITNESSES' FEES AND TRAVELLING EXPENSES**

1. A person who is an officer by reason of his professional, scientific or other special skill or knowledge and is called to give evidence by reason of that skill or knowledge shall be paid a fee of not less than \$45 and not more than \$250 for each day on which he so attends.

2. A person, other than a person referred to in clause 1 of this Schedule, who is called to give evidence or to produce documents shall be paid —

- (a) if he is remunerated by wages, salary or fees —
  - (i) a fee equal to the amount of wages, salary or fees lost by reason of his so attending; or
  - (ii) a fee of \$50 for each day on which he so attends, whichever is the less; or
- (b) if he is not so remunerated - a fee of \$30 for each day on which he so attends.

3. A person attending an examination before an inspector to give evidence or to produce documents shall be paid a reasonable amount —

- (a) in respect of his conveyance to and from the place at which he so attends; and
  - (b) if he is required to be absent overnight from his usual place of residence - for meals and accommodation.
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**SCHEDULE 7***Regulation 51***SCHEMES OF ARRANGEMENT****PART 1 — INTERPRETATION**

In this Schedule —

“internal creditor” means a creditor who is a member of the company, a relative or spouse of the member, or a relative of the spouse of a member;

“Scheme” means the proposed compromise or arrangement;

“scheme creditors” means the creditors or class of creditors of a company, to whom the Scheme would apply;

“scheme members” means the members or class of a company, to whom the Scheme would apply.

**PART 2****PRESCRIBED INFORMATION RELATING TO PROPOSED COMPROMISE OR ARRANGEMENT WITH CREDITORS OR CLASS OF CREDITORS**

1. The statement shall set out —
  - (a) the expected dividend that would be available to scheme creditors if the company were to be wound up within 6 months after the date of the hearing of the application to the Court for an order under subsection 388(1) of the Act;
  - (b) where a composition of debts is proposed - the expected dividend that would be paid to scheme creditors if the Scheme were put into effect as proposed;
  - (c) a list of the names of all known scheme creditors together with the debts owed to those creditors;
  - (d) if any scheme creditor is known to be a guaranteed creditor - the name of that creditor and the amount of the debt owed; and
  - (e) if any scheme creditor is known to be an internal creditor - the name of the creditor and the amount of the debt owed.
2. The statement shall contain a statement to the effect that an order under subsection 388(1) of the Act does not constitute an endorsement of, or any other expression of opinion on, the Scheme.
3. The statement shall contain as a schedule or have annexed to it —
  - (a) a report as to the affairs of the company in accordance with a form provided by the Registrar, drawn to represent the financial position of the company as at a day within one month of the date on which it is intended to apply to the Court for an order under subsection 388(1) of the Act;
  - (b) a copy, certified by a director, a secretary or the principal executive officer of the company to be a true copy, of all accounts and group

accounts (if any) required to be laid before the company at the annual general meeting, together with a copy of every document required by law to be annexed to the accounts;

- (c) where the company the subject of the Scheme is a trustee, a statement as to —
  - (i) how many trusts are administered by the trustee;
  - (ii) whether the trustee carries on any business separate from that of the trust;
  - (iii) how the scheme creditors may obtain a copy of the relevant trust deed, free of charge, prior to the date of the meeting; and
- (d) where the person, if any, who would be appointed to manage the Scheme proposes to charge for his services and for the services of his staff in accordance with a particular scale of charges, that scale of charges.

### PART 3

#### PRESCRIBED INFORMATION RELATING TO PROPOSED COMPROMISE OR ARRANGEMENT WITH MEMBERS OR A CLASS OF MEMBERS

1. The statement shall set out —
  - (a) except in the case where the company the subject of the Scheme is in the course of being wound up or is under official management, in relation to each director of the company —
    - (i) if the director desires to make, and considers himself justified in making, a recommendation in relation to the Scheme - whether the director recommends the acceptance of the Scheme or recommends against acceptance and, in either case, his reasons for so recommending;
    - (ii) if the director is not available to consider the Scheme - that the director is not so available and the cause of his not being available; or
    - (iii) in any other case - that the director does not desire to make, or does not consider himself justified in making, a recommendation and, if the director so requires, his reasons for not wishing to do so; or
  - (b) where the company the subject of the Scheme is in the course of being wound up or is under official management, in relation to each liquidator or each official manager, as the case requires —
    - (i) if the liquidator or official manager, as the case may be, wishes to make a recommendation in relation to the Scheme - whether the liquidator or official manager, as the case may be, recommends the acceptance of the Scheme or recommends against acceptance and, in either case, his reasons for so recommending; or

(ii) in any other case - that the liquidator or official manager, as the case may be, does not wish to make a recommendation and his reasons for not wishing to do so.

2. The statement shall set out —

- (a) the number, description and the amount of marketable securities of the company the subject of the Scheme held by or on behalf of each director of the company or, in the case of a director by or on behalf of whom none are so held, a statement to that effect;
- (b) in respect of each director of the company the subject of the Scheme, by whom or on whose behalf, shares in that company are held, whether —
  - (i) the director intends to vote in favour of, or against, the Scheme; or
  - (ii) the director has not decided whether he will vote in favour of, or against, the Scheme;
- (c) where the other party to the proposed reconstruction or amalgamation is, or includes, a corporation or corporations, whether any marketable securities of that corporation or of any of those corporations are held by, or on behalf of, any director of the company the subject of the Scheme and, if so, the number, description and amount of those marketable securities;
- (d) where it is proposed that any payment or other benefit will —
  - (i) be made or given to any director, secretary or executive officer of the company the subject of the Scheme as compensation for loss of, or as consideration for or in connection with his retirement from, office as a director, secretary or executive officer of the company the subject of the Scheme or of a corporation that is related to the company the subject of the Scheme; or
  - (ii) be made or given to any director, secretary or executive officer of any corporation that is related to the company the subject of the Scheme as compensation for the loss of, or as consideration for or in connection with his retirement from, office as a director, secretary or executive officer of the company the subject of the Scheme or of a corporation that is related to that company,

particulars of the proposed payment or benefit;

- (e) where there is any other agreement or arrangement made between any director of the company the subject of the Scheme and any other person in connection with or conditional upon the outcome of the Scheme - particulars of any such agreement or arrangement;
- (f) if the object of the Scheme is for a corporation to acquire control of another corporation that is a company, whether any director of that company has any interest in any contract entered into by the corporation seeking control and particulars of the nature and the extent of each such interest, if any;

- (g) if the shares of the company the subject of the Scheme are not granted official quotation on a Stock Exchange, all the information that the company the subject of the Scheme has as to the number of any such shares that have been sold in the 6 months immediately preceding the date on which the statement is lodged with the Registrar for registration and the amount of those shares and the prices at which they were sold;
- (h) whether, within the knowledge of the directors of the company the subject of the Scheme, or, where the company the subject of the Scheme is in liquidation or under official management, the knowledge of the liquidator or the official manager, the financial position of the company has materially changed since the date of the last balance sheet laid before the company in general meeting or dispatched to shareholders in accordance with section 344 of the Act and, if so, full particulars of any such change or changes; and
- (i) any other information material to the making of a decision in relation to the Scheme, being information that is within the knowledge of any director, liquidator or official manager of a company the subject of the Scheme or of a related company and which has not previously been disclosed to the scheme members.

3. Where —

- (a) the other party to the proposed reconstruction or amalgamation of the company the subject of the Scheme has a prescribed shareholding in the company the subject of the Scheme; or
- (b) a director of any corporation which is the other party to the proposed reconstruction or amalgamation is a director of a company the subject of the Scheme,

the statement shall be accompanied by a copy of a report made by an expert (not being a person who is associated with the corporation which is the other party to the proposed reconstruction or amalgamation or with the company the subject of the Scheme) stating whether or not, in his opinion, the implementation of the proposed Scheme is in the best interest of the members of the company the subject of the Scheme and setting out his reasons for forming that opinion.

4. Where the company the subject of the Scheme obtains 2 or more reports, each of which could be used for the purposes of compliance with clause 3, the statement shall be accompanied by a copy of each report.

5. Where —

- (a) the company the subject of the Scheme obtains a report for the purposes of compliance with clause 3; and
- (b) the report contains —
  - (i) a forecast in respect of the profits or profitability of the company the subject of the Scheme; or

- (ii) a statement to the effect that the market value of an asset or assets of the company the subject of the Scheme or of a corporation that is related to the company the subject of the Scheme differs from an amount at which the value of the asset or assets is shown in the books of the company or the related corporation.

that report shall not accompany the statement except with the consent in writing of the Registrar and in accordance with such conditions (if any) as are specified by the Registrar.

- 6. For the purposes of clause 3 —
  - (a) a person has a prescribed shareholding in a company if he is entitled to not less than 30% of the voting shares in the company; and
  - (b) a person has a prescribed shareholding in a company being a company the voting shares in which are divided into 2 or more classes of shares, if he is entitled to not less than 30% of the shares in one of those classes.

7. The statement shall set out, where the consideration to be offered to scheme members consists, in whole or in part, of marketable securities issued, or to be issued, by a corporation, the formula to be applied to ascertain the number of marketable securities to be issued to each scheme member, and the basis on which that formula was developed.

8. Where marketable securities of the same class as those referred to in clause 7 are granted official quotation on a Stock Exchange, the statement shall state the fact, specify the Stock Exchange concerned, and set out —

- (a) the latest recorded sale price before the date on which the statement is lodged with the Registrar for registration;
- (b) the highest and lowest recorded sale prices during the 3 months immediately preceding that date and the respective dates of the relevant sales; and
- (c) where the Scheme has been the subject of a public announcement in newspapers or by any other means before the statement has been registered by the Registrar, the latest recorded sale price immediately before the public announcement.

9. (1) Where the marketable securities referred to in clause 8 are granted official quotation on more than one Stock Exchange, it is sufficient compliance with paragraphs 9(a) and (c) if information with respect to the marketable securities is given in relation to the Stock Exchange at which there has been the greatest number of recorded dealings in the securities in the 3 months immediately preceding the date on which the statement is lodged with the Registrar for registration.

(2) Where the securities have not been granted official quotation on a stock exchange, the statement shall set out all the information that a director, liquidator or official manager of a company the subject of the Scheme or of a related company has as to the number of securities that have been sold in the 3 months immediately preceding the date on which the explanatory statement was prepared and the price of those securities or, if that information or any part of that information cannot be ascertained, a statement to that effect.



10. (1) The statement shall set out particulars of the intentions of the directors of the company the subject of the Scheme regarding —
- (a) the continuation of the business of the company or, where the undertaking, or any part of the undertaking, of a company is to be transferred, how that undertaking or part is to be conducted in the future;
  - (b) any major changes to be made to the business of the company, including any redeployment of the fixed assets of the company; and
  - (c) the future employment of the present employees of the company.

#### PART 4

#### PRESCRIBED INFORMATION RELATING TO PROPOSED COMPROMISE OR ARRANGEMENT WITH MEMBERS OR CLASS OF MEMBERS FOR TRANSFER TO A TRUSTEE

1. The statement shall set out —
- (a) in detail, the basis on which units in the unit trust are to be issued to scheme members; and
  - (b) where the issue of units in the unit trust is based on the asset backing of shares held by scheme members, full valuation details of those assets.
2. A copy of the trust deed shall be annexed, or set out in a schedule, to the statement.
3. Where the effect of the proposed compromise or arrangement will be the merger of 2 companies without substantial common membership, the explanatory statement shall, so far as practicable, state the matters, and be accompanied by the documents and reports, referred to in Part 3.

## SCHEDULE 8

*Regulation 136*

## PRESCRIBED FEES

Column 1	Column 2	Column 3
Item	Matter	Amount
		Fee unit
	<b>Registration of auditors and liquidators</b>	
1.	On lodging an application in pursuance of paragraph 42(1)(a) or (b) for registration as auditor or liquidator	1
2.	On lodging an application in pursuance of paragraph 42(1)(c) for registration as a liquidator of a specified corporation	1
3.	On lodging a statement —	
	(a) under subsection 53(2) or (3) —	
	(i) if statement made in the capacity of auditor or liquidator	0.5
	(ii) if statement made in the capacity of auditor and liquidator	1
	(b) under subsection 53(5)	1
	<b>Names</b>	
4.	For a search as to the availability of any names proposed to be adopted or used by a corporation or intended corporation, in respect of each name searched	0.5
5.	On lodging an application for the reservation of a name or for the extension of a reservation	1
6.	On lodging an application for the approval of the Registrar to the change of name of a company, other than a change of name directed by the Registrar under subsection 85(3) or a change of name under subsection 86(2)	5

**Incorporation**

7. On the submission of a memorandum and articles for the registration of an intended company having a share capital 40
- and, in addition, where the memorandum and articles consist of more than 20 pages, for each page in excess of 20 0.1
- and, in addition, for each whole amount of \$1000 by which the share capital exceeds \$10,000 0.3
8. On the submission of a memorandum and articles for the registration of an intended company not having a share capital 30
- and, in addition, where the memorandum and articles consist of more than 20 pages, for each page in excess of 20 0.1

**Powers and status**

9. On lodging a copy of a resolution altering a provision or provisions of the memorandum or articles of a company, or the memorandum and articles of a company 1
- and, in addition, where the resolution alters the memorandum of a company by increasing its share capital, for each whole amount of \$1000 by which the share capital is increased beyond \$10,000 0.3
10. Sections 86 licences
- On lodging an application for a licence under section 86 2.5
11. On lodging an application for the approval under subsection 88(1) of the alteration or proposed alteration of the memorandum or articles of a company 1

**Changes after incorporation**

12. On lodging an application under section 97 for a change of status —
- (a) in respect of an application by a company limited by guarantee to convert to a company limited 22

both by shares and guarantee

(b) in respect of an application other than an application referred to in paragraph (a) 1

13. On lodging a copy of a special resolution under subsection 98(1) or (2) 1

**13A. Return of allotment of shares**

13A. Subject to this item, on lodging a return of allotment of shares, for each whole \$1000, or incomplete part thereof, of the nominal amount of the shares allotted.

0.3

No fee is payable under this item where the shares referred to in the return are an allotment of share capital in respect of which a fee was paid under the third paragraph of item 7 or the second paragraph of item 9

**Registration of foreign companies**

14. On the lodging of documents under subsection 588(2) for the registration of a foreign company 20

**Fund raising**

15. On lodging an application for the approval of a trustee for debenture holders under paragraph 221(1)(h) 1

16. On lodging an application to the Registrar in pursuance of section 270 5

17. On lodging an application to the Registrar under subsection 641(2) 5

**Charges**

18. On lodging a notice under section 253 or 254 5

19. On lodging a notice under section 261 5

20. On lodging a memorandum under subsection 262(2) 5

**Annual returns and accounts**

21. On lodging an application to the Registrar under subsection 339(4) 1

22. On lodging an applications to the Registrar under 5

section 343

- |      |  |     |
|------|--|-----|
| 23.  | On lodging an annual return of a public company, not being a company referred to in Item 24  | 35  |
| 24.  | On lodging an annual return or accounts of a company limited by guarantee or both by shares and by guarantee, where it is stated in the memorandum of the company that the company — |     |
|      | (a) is formed for a purpose referred to in paragraph 86(1)(a)  |     |
|      | (b) applies its profits (if any) or other income in promoting its purpose; and   |     |
|      | (c) prohibits the distribution of its income or property among its members   | 2.5 |
| 25.  | On lodging an annual return of a proprietary company that is not an exempt proprietary company   | 35  |
| 26.  | On lodging an annual return of an exempt proprietary company   | 35  |
| 27.  | On lodging with the Registrar an annual return for a company that has been granted local company status under section 638  | 7.5 |
| 28.  | On lodging an annual return or a balance-sheet and profit and loss account of a registered foreign company, under section 592  | 35  |
| 28A. | On lodging an application for transfer for incorporation under section 122A  | 50  |

**Other documents**

- |     |  |   |
|-----|--|---|
| 29. | On lodging any document for the lodging of which a fee is not provided by any other item | 1 |
|-----|--|---|

**Defunct companies**

- |     |  |   |
|-----|--|---|
| 30. | On lodging an application to the Registrar to exercise the powers conferred by section 562 or 564      | 1 |
| 31. | For an act done by the Registrar as representing a defunct company or its liquidator under section 562 | 1 |
| 32. | For an act done by the Registrar under section 564   | 1 |

**Late lodgment**

- |     |  |     |
|-----|--|-----|
| 33. | On the late lodgment of a document (in addition to any lodgment fee provided by any other item for the lodging of that document) — |     |
|     | (a) if lodged within one month after the prescribed time   | 1.5 |
|     | (b) if lodged more than one month, but within 3 months, after the prescribed time  | 4.5 |
|     | (c) if lodged more than 3 months after the prescribed time   | 6   |

**Searches of documents**

- |     |  |     |
|-----|--|-----|
| 34. | For inspection under section 60 of documents that are lodged by or in relation to a particular corporation or other person | 0.5 |
| 35. | For any enquiry, other than an enquiry in person, involving an inspection to which Item 48 refers                          | 0.5 |

**Supply of uncertified copies**

- |     |   |     |
|-----|---|-----|
| 36. | For the supply of a photocopy of a document, for each page in addition to the fee payable under Item 48 or 49 | 0.2 |
|-----|---|-----|

**Certification**

- |     |  |   |
|-----|--|---|
| 37. | For a certificate issued by the Registrar other than a certificate referred to in Item 52 or a certificate under subsection 70(2) or 590(7)  | 1 |
| 38. | For the supply of a certified copy of, or the supply of a certified copy of an extract from, a document filed or lodged with the Registrar — |   |
|     | for one page   | 1 |
|     | for each additional page or part of a page   | 1 |

**Production of documents**

- |     |  |     |
|-----|--|-----|
| 39. | For the production by the Registrar pursuant to a subpoena, of a document in its custody | 1   |
|     | and, in addition, for each 2 pages or less of the document produced                      | 0.2 |

**Other acts by the Registrar**

- |     |   |   |
|-----|---|---|
| 40. | For any act that the Registrar is required or authorised to do upon the request of a person and for which a fee is not prescribed by any other item | 1 |
| 41. | On lodging with the Registrar in accordance with paragraph 193(e) a copy of the notice and of the statement referred to in that paragraph           | 1 |

## SCHEDULE 9

*Regulation 137*  
*Section 661*

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**PRESCRIBED OFFENCES — PROVISIONS AND PENALTIES**


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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Provision of the Act</b>	<b>Penalty Units</b>
1	Subsection 160(1)	1.25
2	Subsection 185(1)	1.25
3	Subsection 216(1)	1.25
4	Subsection 264(2)	1.25
5	Subsection 271(1), (2)	1.25
6	Subsection 272(1)	1.25
7	Subsection 272(4)	1.25
8	Subsection 273(1)	2.5
9	Subsection 273(4)	2.5
10	Subsection 291(1)	1.25
11	Subsection 298(1)	1.25
12	Subsection 299	1.25
13	Subsection 320(1)	1.25
14	Subsection 325(9)	1.25
15	Subsection 328(1)	1.25
16	Subsection 421(1)	2.5
17	Subparagraph 422(1)(c)(iii)	1.25
18	Subparagraph 434(2)(a)(ii)	1.25
19	Subsection 460(1)	1.25
20	Subsection 528(1)	2.5
21	Subsection 593(1)	2.5
22	Subsection 593(6)	2.5
23	Subsection 627(1)	1.25
24	Subsection 627(2)	1.25
25	Subsection 627(3)	1.25
26	Subsection 630(2)	1.25

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**SCHEDULE 10**  
*Regulation 138*  
**COMPANIES ACT 1985**  
**PENALTY NOTICE**

*Section 661*

To .....

1. It is alleged that at ..... on or about  
.....20.... you committed an offence in relation to  
..... in that you  
.....

Such an offence is a prescribed offence.

2. Prescribed penalty \$.....  
Payable to the Administration of Norfolk Island.

3. Take notice that —

(a) the obligation to .....continues,  
notwithstanding the service of this notice or the payment of a prescribed penalty;

(b) but if, within 21 days of the service of this notice, you —

(i) pay the prescribed penalty to the Administration of Norfolk Island; and;

(ii) ..... no further action will  
be taken against you in relation to the offence particulars of which are set out in  
paragraph 1; and

(c) if, at the expiration of 21 days after the date of service of this notice, you —

(i) have not paid the prescribed penalty to the Administration of Norfolk Island,  
or;

(ii) have not ..... proceedings may be  
instituted against you.

Given by ..... Registrar of Companies at  
Norfolk Island on this ..... day of .....20.....



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**NOTES**

The *Companies Regulations 1986* as shown in this consolidation comprises Regulations No. 8 of 1986 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Companies Regulations 1986</i>	8, 1986	17.7.86	
<i>Companies Amendment Regulations 1988</i>	9, 1988	26.8.88	
<i>Companies Amendment Regulations 1997</i>	1, 1997	27.2.97	
<i>Companies Amendment Regulations 2000</i>	5, 2000	16.6.00	
<i>[Previously consolidated as at 29 November 2005]</i>			
<i>Interpretation (Amendment) Act 2012 [to substitute throughout — Commonwealth Minister for Minister; and to substitute Minister for executive member]</i>	14, 2012	28.12.12	

Ordinance	Registration	Commencement	Application, saving and transitional provisions
Norfolk Island Continued Laws Amendment Ordinance 2015 (No. 2, 2015) (now cited as Norfolk Island Continued Laws Ordinance 2015 (see F2015L01491))	17 June 2015 (F2015L00835)	18 June 2015 (s 2(1) item 1)	Sch 1 (items 344, 345, 382–390)
<b>as amended by</b>			
Norfolk Island Continued Laws Amendment (Statutory Appointments and Other Matters) Ordinance 2018	28 Sept 2018 (F2018L01378)	Sch 1 (item 11): 29 Sept 2018 (s 2(1) item 1)	—

**Table of Amendments**

ad = added or inserted    am = amended    rep = repealed    rs = repealed and substituted

Provisions affected	How affected
44	am    Ord No 2, 2015 (as am by F2018L01378)
138	ad    1, 1997
Schedule 1	am    5, 2000
Schedule 2	am    5, 2000
Schedule 8	am    9, 1988; 5, 2000;
Schedule 10	ad    1, 1997